Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

1993 Annual Access Tariff Filings Phase I	)	
1994 Annual Access Tariff Filings	)	
AT&T Communications Tariff FCC Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462, and 5464 Phase III	)	CC Docket Nos. 93-193, 94-65, 93-193, 94-157
Bell Atlantic Telephone Companies Tariff FCC No. 1, Transmittal No. 690	)	
NYNEX Telephone Companies Tariff FCC No. 1, Transmittal No. 328	)	

COMMENTS OF AT&T CORP.

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COMMENTS OF AT&T CORP.

Pursuant to the Commission's *Notice*,[1] AT&T Corp. ("AT&T") submits these comments opposing certain local exchange carriers' ("LECs") unlawful use of accounting rule changes that have no economic impact as the basis for exogenous cost increases in their 1996-97 price cap indices ("PCIs").

INTRODUCTION AND SUMMARY

According to the LECs, there was a nine month window of opportunism – from May 1996 to February 1997 – where, despite the Commission's clear policies to the contrary, the

[1] Order, Notice, and Erratum, *1993 Annual Access Tariff Filings Phase I; 1994 Annual Access Tariff Filings; AT&T Communications Tariff F.C.C. Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462, and 5464 Phase III; BellAtlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 690; NYNEX Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 328,* CC Docket Nos. 93-193, 94-65, 93-193, 94-157, DA 03-488 (rel. Feb. 25, 2003) ("*Notice*").

LECs could both pad their then-current 1995 rate bases with zero-cost unfunded "other postretirement employee benefits" ("OPEBs") and inflate their 1992, 1993, and 1994 rate bases with additional zero-cost unfunded OPEB amounts. The LECs contend that sharing obligations would have been lower in each of those years if they had computed their rate bases as they now seek to restate them. The LECs then assert that the Commission is helpless to stop them from recovering the difference between their actual sharing obligations for those years, and these newly computed sharing obligations through an exogenous cost increase to their 1996-97 PCIs that totals more than $170 million. The LECs' machinations are patently unlawful and must be rejected, and the Commission should order immediate refunds to ratepayers.

It is undisputed – as the Commission has expressly held – that under any rational theory, unfunded OPEBs *must* be deducted from the rate base, because OPEBs are "zero cost" sources of funds that do not come from investors and, therefore, are not funds for which the LECs are entitled to earn a return from ratepayers. It is likewise undisputed – and the Commission had expressly held even before the tariff filings at issue – that exogenous cost PCI increases require prior Commission approval through rule, rule waiver or declaratory ruling that the LECs never sought, and that, in any event, paper accounting changes that have no actual economic impact (like the OPEB changes at issue here) can never lawfully serve as a basis for an exogenous cost increases to PCIs. The LECs thus have no conceivable substantive defense of the proposed PCI increases, which represent a pure – and quite enormous – windfall. Instead, the LECs claim that the Commission is powerless to stop them from exploiting rule gaps that they claim bar the Commission from reaching the correct result in the context of this tariff investigation.

But to prevail on this claim, and to obtain the PCI increases they seek, the LECs must establish that: (1) they have an unassailable right as a matter of law for each of the four years

preceding the 1996 tariff filings to add to their rate bases unfunded OPEBs that they previously deducted; (2) those rate base additions entitle them as a matter of law to make exogenous cost increases to their PCIs to reflect reduced sharing obligations for those prior years; and (3) they have met their burden of proof to demonstrate with record support that they performed the rate base, sharing and PCI calculations correctly, adding no more than was previously deducted and reflecting all of the relevant offsetting effects. As detailed below, the LECs have not and cannot establish even one, much less all three, of these prerequisites to the massive rate hikes that they seek.

Contrary to the LECs' claims, it is not true that absent an express rule concerning the specific OPEB costs at issue, the Commission's hands are so tied that it cannot disallow LECs from padding their current and historical rate bases with zero-cost unfunded OPEB amounts. It is black letter law that "a tariff investigation is a rulemaking"[2] under the APA, that the Commission can and does "routinely make[] significant policy and methodological decisions based on the records developed in tariff investigations[,] and [that] such decisions do not violate the notice and comment requirements of the [APA]."[3] Thus, as the Commission acknowledged, OPEBs can be excluded from the rate base if affected parties are given notice and an opportunity to comment,[4] and this tariff investigation has provided exactly that opportunity.

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[2] *See, e.g.*, Memorandum Opinion and Order, *Tariffs Implementing Access Charge Reform*, 13 FCC Rcd. 14683, ¶ 81 (1998) ("*Access Reform Tariff Order*") (quotation omitted); Memorandum Opinion and Order, *Implementation of Special Access Tariffs of Local Exchange Carriers*, 5 FCC Rcd. 4861 (1990); 5 U.S.C. § 551(4).

[3] *Access Reform Tariff Order* ¶ 80.

[4] Report and Order, *Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions, Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base*, CC Docket No. 96-22, AAD 92-65, FCC 97-56, ¶ 28 (1997) ("*OPEB Rate Base Order*").

Indeed, the LECs' claims to the contrary are absurd. Their interpretation of the rules would establish an entirely one-sided system that would unfairly and systematically favor them. The LECs would be able immediately to incorporate all rate base adjustments that are favorable to them, while (as here) ignoring all adjustments that are unfavorable until the Commission can complete a traditional rulemaking proceeding and specify that such adjustments must be made.

But even if (contrary to fact) the Commission had no power to disallow retroactive inflation of the LECs' rate bases with zero-cost unfunded OPEB amounts, the Commission's rules in effect at the time of the tariff filings quite plainly did not permit those rate base adjustments to be tacked on to the LECs' 1996-1997 PCIs. In 1995 – one year prior to the filing of the tariffs at issue in this proceeding – the Commission expressly held that exogenous cost PCI increases could not be made without first obtaining express permission from the Commission. At the same time, the Commission expressly prohibited exogenous cost increases based on accounting changes, like the SFAS 106 rule that changed OPEB reporting, that have no impact on the LECs' actual costs. No pre-existing rule authorized the extraordinary sharing mechanisms that the LECs employed to generate their PCI increases, and the LECs never sought, much less obtained, permission to seek an exogenous cost change to their 1996 PCIs based on the zero-cost unfunded OPEB accounting change.

But even if the LECs could in theory overcome the legal prohibitions against including the zero-cost unfunded OPEB amounts in their rate bases, and against transforming their rate base tricks into exogenous cost PCI increases, the Commission's rules in effect in 1996 (and today) absolutely prohibited the LECs from changing their 1992 and 1993 Form 492 rate base and return calculations that are used to determine sharing. The Commission's rules prohibit changes after 15 months from the end of the calendar year to which rate base calculations apply.

47 C.F.R. § 65.600(d). Under this rule, the time to amend 1992 rate bases expired in March 1994, and the time to amend 1993 rate bases expired in March 1995. Thus, the LECs could not, without special Commission approval (which they did not seek, much less obtain), lawfully amend their 1992 and 1993 rate bases in 1996, as they attempt to do.

Finally, even setting aside all of the absolute legal prohibitions against the PCI increases the LECs seek, the LECs have not satisfied their burden of proving that the specific adjustments they seek are legitimate. As the Bureau concluded in 1996, "the LECs have failed to document and explain the derivation of the rate base adjustments underlying the revisions" and that the "lack of cost support information makes it impossible to verify the accuracy of the LECs' rate base adjustments." Today, seven years later, the record is unchanged. The LECs still have failed to support the rate base additions they seek. Moreover, as detailed below, even the scant amount of documentation that is available confirms that the amounts sought by the LECs are grossly overstated.

BACKGROUND

To understand the issues, it is important to understand (i) the Commission's price cap regulation of the LECs' access charges; (ii) the LECs' attempts to exploit a change in accounting rules for a certain category of employee benefit costs to obtain exogenous cost increases to their price capped rates; and (iii) the particular details of the LECs' rate base scheme that the LECs employed in 1996.

1. The Price Cap System. At the time these tariffs were filed, the Commission's price cap system for LECs had a feature called "sharing." In the *1990 Price Cap Order*,[5] the

[5] Second Report and Order, *Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC Rcd. 6786 (1990) ("*1990 Price Cap Order*")

Commission recognized that its estimates of anticipated productivity gains might prove inaccurate, and thereby might prevent consumers from sharing appropriately in the benefits of incentive regulation.[6] To reduce this risk, the Commission adopted a backstop program involving after-the-fact "sharing" and "low end" adjustments.[7] Under this program, the LECs' actual observed returns on their rate bases are compared to a band of reasonableness set by the Commission.[8] A LEC whose earnings in a given year exceeded the high end of the band was required to "share" part or all of the excess with ratepayers the following year. The "sharing" was accomplished through a one-time downward adjustment to the LEC's PCI in its next annual tariff.[9] The Commission reasoned that, in a year in which a LEC's earnings are particularly high, the productivity offset chosen by the Commission understated the LEC's gains in efficiency, such that a PCI adjustment is needed to better align the productivity offsets with actual experience.[10]

In addition to these annual adjustments, the price cap rules provide for an "exogenous cost" adjustment to address "costs that are triggered by administrative, legislative or judicial action beyond the control of the carriers" and which "should result in an adjustment to the cap in order to ensure that the price cap formula does not lead to unreasonably high or unreasonably low rates."[11] Exogenous cost adjustments are allowed only in very limited circumstances

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[6] *1990 Price Cap Order* ¶ 120.

[7] *Id.* ¶¶ 120-165.

[8] *Id.* ¶¶ 122-25.

[9] *Id.* ¶ 152. Correspondingly, when a LEC's earnings fell short of the low-end of the band, it was permitted a one-time upward adjustment to its PCI. For purposes of this pleading, both the sharing and the low end adjustment will be referred to as "sharing."

[10] *Id.* ¶¶ 120-128.

[11] *Id.* ¶ 166.

because "[i]t is a basic feature of price caps that most changes in the current cost of providing service are treated endogenously, that is, are not directly reflected in current prices."[12] Authorized exogenous cost adjustments are implemented through one-time modifications in the PCI formula.[13]

As the LECs began operating under the price cap regime, they repeatedly attempted to exploit the exogenous cost rule as a loophole to increase their PCIs without regard to whether the costs in question were triggered by administrative, legislative or judicial actions beyond their control, or even whether the allegedly triggering actions actually increased their costs.[14] The Commission rebuffed these attempts and repeatedly admonished the LECs to abide by the rules.[15] In its 1995 price cap review proceeding (before the tariff filings at issue here) the Commission adopted a categorical rule that exogenous cost changes in PCIs are "limited to those cost changes that the Commission shall permit or require by rulemaking, rule waiver, or declaratory ruling"[16] and that "LECs w[ill] not be permitted . . . to revise their PCIs until the rulemaking, rule waiver process, or declaratory ruling proceeding [i]s completed."[17] The Commission also amended its rules to make clear that exogenous cost treatment for accounting changes is appropriate *only* for administrative, legislative or judicial changes that produce a real,

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[12] First Report and Order, *Price Cap Performance Review for Local Exchange Carriers*, 10 FCC Rcd. 8961, ¶ 301 (1995) ("*1995 Price Cap Performance Order*").

[13] *See* 47 C.F.R. § 61.47.

[14] *See 1995 Price Cap Performance Order* ¶ 312 (noting that "LECs have significant incentives to request exogenous cost treatment for cost changes that might increase their PCIs, but not to request exogenous cost treatment for cost changes that might decrease their PCIs").

[15] *See 1995 Price Cap Performance Order* ¶¶ 314-16.

[16] 47 C.F.R. § 61.45(d).

[17] *1995 Price Cap Performance Order* ¶ 318.

economic effect on the LECs' cash flow, as opposed to changes that merely alter paper reporting requirements.[18]

2. The OPEB Accounting Change. This proceeding involves so-called "other post-employment benefits" (or "OPEBs"), which are post-employment benefits other than pensions, such as retiree health, life, and dental insurance. In December 1990, the Financial Accounting Standards Board ("FASB") adopted Statement of Financial Accounting Standards ("SFAS") Number 106, which constituted a change in Generally Accepted Accounting Principles ("GAAP"). SFAS 106 established new financial accounting and reporting requirements for OPEBs. SFAS 106 became effective on December 15, 1992. Prior to adoption of SFAS 106, most companies had been accounting for OPEBs on a cash or "pay-as-you-go" basis, recognizing OPEBs as expenses when paid. SFAS 106 required companies to account for OPEB liabilities to employees on an accrual basis, *i.e.*, to recognize OPEB obligations as they accrue during the years employees earn the benefits.[19]

Although the Commission requires the LECs to keep regulatory accounting books separate from the financial accounting books upon which their annual reports and securities filings are based, the Commission's policy generally is to conform regulatory accounting

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[18] *Id.* ¶ 293 (limiting "exogenous cost treatment . . . resulting from changes in USOA requirements to *economic cost changes*") (emphasis added), *aff'd Bell Atl. Tel. Cos.* v. *FCC*, 79 F.3d 1195, 1204 (D.C. Cir. 1996).

[19] Accompanying this prospective change in how ongoing expenses are booked each year, SFAS 106 required companies to recognize on their financial accounting books the amount of any unfunded OPEB *obligation* for retired and active employees on the date of SFAS 106 adoption. This unfunded obligation was referred to as the "transition benefit obligation" or "TBO," and reflected the amount that a company would have accrued on its books as of the effective date of SFAS 106 if it had been using the accrual method all along. SFAS 106 permitted companies either to recognize the entire TBO as an immediate expense or to amortize it over the average remaining service years of plan participants. Where the average remaining service period is less than 20 years, companies were permitted to amortize it over a 20-year period.

requirements for carriers to GAAP, unless the GAAP principle conflicts with the Commission's regulatory objectives.[20] Accordingly, the Commission ordered the LECs to conform their accounting books (with minor exceptions) to the SFAS 106 rules.[21]

3. OPEB Exogenous Cost Disputes. In their 1992 annual access tariff filings, a number of price cap LECs tried to take advantage of the accounting rule change by seeking exogenous cost increases to their PCIs. On January 22, 1993, the Commission rejected those attempts.[22] The D.C. Circuit, however, reversed, holding that the Commission's reasoning was flawed, and remanded for further Commission consideration.[23]

In response to the D.C. Circuit decision, a number of price cap LECs again sought to attain exogenous cost increases for the OPEB accounting change in 1994 tariff filings (and had also done so in 1993 tariff filings). The Commission suspended those tariffs and set them for

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[20] *See* Report and Order, *Revision of the Uniform System of Accounts for Telephone Companies to Accommodate Generally Accepted Accounting Principles*, 102 F.C.C.2d 964 (1985); 47 C.F.R. § 32.16.

[21] *Southwestern Bell Corporations, GTE Service Corporation, Notification of Intent to Adopt Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions*, 6 FCC Rcd. 7560 (Com. Car. Bur. 1991).

[22] Memorandum Opinion and Order, *Treatment of Local Exchange Carrier Tariffs Implementing Statement of Fin. Accounting Standards*, 8 FCC Rcd. 1024 (1993) ("*OPEB Order*"). With respect to ongoing costs, the Commission agreed that the accounting change was "not within the carriers' control," but denied exogenous cost treatment on the ground that carriers had "control over the present and future benefit plans they set with their employees and the costs of these plans." *Id.* at ¶ 53. With respect to the TBO, the Commission held that the LECs had failed to meet their burden of demonstrating that the economy-wide effects of the TBO were not already reflected in the price cap formula. *Id.* at ¶¶ 59-66.

[23] *Southwestern Bell Telephone Company* v. *FCC*, 28 F.3d 165, 169-70 (D.C. Cir. 1994). With respect to the TBO, the Court rejected as unsupported and unreasonable the Commission's rejection of all TBO costs on the ground that they were already reflected in the price cap formula. *Id.* at 171-73.

investigation as well.[24] The Commission has never resolved those claims and, following suspension, the LECs OPEB-related exogenous cost PCI increases took effect, resulting in millions of dollars in rate increases. AT&T will address the OPEB-related issues in the 1992-1995 tariff filings – in particular, whether Verizon's predecessors unlawfully implemented exogenous cost increases based on SFAS 106 adjustments prior to January 1, 1993 (the day that the Commission required LECs to implement that accounting change in their regulatory books) – as the *Notice* (¶ 23) directs in its Opposition to Verizon's direct case.

In its *1995 Price Cap Performance Order* the Commission prohibited to any further attempts to seek exogenous cost increases based on accounting changes that, like unfunded OPEBs, have absolutely no economic cost impact on the LECs.[25] The Commission expressly identified unfunded OPEBs as one type of accounting change that had no effect whatsoever on any LEC's actual costs. "LECs are not required [by SFAS 106] to change their OPEB commitments to employees, but merely to change the timing of the recognition of these costs on their books."[26] "[A]lthough accounting books may have changed," SFAS 106 "leav[es] cash flow unchanged."[27]

4. Rate Base Treatment Of OPEBs And The LECs' 1996 Tariffs. Although the Commission's *Price Cap Performance Review Order* should have been the definitive word on

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[24] *In the Matter of 1993 Annual Access Tariff Filings, 1994 Annual Access Tariff Filings, AT&T Communications Tariff FCC Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462, and 5464, Bell Atlantic Telephone Companies Tariff FCC No.1, Transmittal No. 690, NYNEX Telephone Companies Tariff FCC No. 1, Transmittal No. 328*, Order Designating Issues for Investigation, 10 FCC Rcd. 11804 (1995) ("*Combined OPEB Investigation Order*").

[25] *1995 Price Cap Performance Order* ¶ 308 ("LECs must adjust their PCIs to exclude prospectively any accounting changes currently reflected there for which carriers did not incur an economic cost").

[26] *Id.* ¶ 307.

the impropriety of exogenous cost PCI increases to recover OPEBs, the LECs in their 1996 annual tariff filing sought to slip those exogenous PCI increases through the back door.

As noted, the Commission's "sharing" rules, which were in effect from 1991-1997, required LECs to share excessive earnings with ratepayers. The operation of the sharing requirements was straightforward. If a carrier earned an excessive return in year 1, then the LEC was required to reduce its PCI in year 2. In order to measure whether LECs were over-recovering, the Commission's rules required the LECs to maintain "rate base" accounts on which returns were measured.[28] If the LECs' measured returns exceeded a band of reasonableness established by the Commission, sharing requirements were triggered.[29]

After the SFAS 106 accounting change was adopted by the Commission, a question arose as to whether those accounting changes should be reflected in the rate base and, therefore, whether those changes should have an impact on sharing obligations. In 1992, the Common Carrier Bureau answered that question in Responsible Accounting Officer Letter No. 20.[30]

With respect to the unfunded OPEB obligations at issue here, the *RAO 20 Letter* identified the regulatory accounts where those obligations should be recorded,[31] and explicitly instructed LECs to *deduct* from their rate bases the unfunded OPEB liabilities. The Bureau explained that unfunded OPEB amounts were analogous to unfunded pension benefits, which the

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[27] *Id.*

[28] *See* 47 C.F.R. § 65.800 *et seq.*

[29] 47 C.F.R. § 61.45(d)(2); *1990 Price Cap Order* ¶¶ 120-65.

[30] *Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32*, 7 FCC Rcd. 2872 (1992) ("*RAO 20 Letter*").

[31] In particular, the *RAO 20 Letter* identified the specific Part 32 accounts that carriers must use to record OPEB costs. As relevant here, carriers must record prepaid OPEB benefits in Account 1410 and accrued OPEB liabilities in Account 4310.

Commission's rules already expressly required be deducted from rate bases, and therefore those amounts should not be included in the rate base on which the LECs are permitted to earn returns from ratepayers.[32] Ameritech and Bell Atlantic filed Applications for Review of the *RAO 20 Letter*, contending that the Bureau exceeded its delegated authority in issuing the instructions.

On March 7, 1996, the Commission agreed that the Bureau lacked authority to determine the rate base requirements for OPEBs.[33] The Commission thus rescinded the rate base portions of RAO 20 and at the same time issued a Public Notice proposing to adopt the RAO 20 rule.[34] The Commission stated that it "tentatively agree[s] with the conclusion in RAO 20 that the similarity between OPEB amounts and pension expenses . . . justifies this rate base treatment for OPEB amounts, as well as pension expenses."[35] With respect to unfunded OPEB liabilities, the Commission tentatively concluded that they should be excluded from the rate base because they are "zero-cost sources of funds," *i.e.*, "funds provided to a carrier without cost to the investors."[36] The Commission explained that this treatment "recognizes that ratepayers should only pay a return on those amounts that the carrier has prudently invested in used and useful plant."[37]

The LECs treated the Commission's rescission of the *RAO 20 Letter* as placing in limbo the Commission's rules with respect to the proper rate base treatment of unfunded OPEB amounts. Within days of the Commission's rescission of the *RAO 20 Letter*, the LECs filed their

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[32] *RAO 20 Letter*, p. 2.

[33] Memorandum Opinion and Notice of Proposed Rulemaking, *Responsible Accounting Officer Letter 20, Uniform Accounting for Post Retirement Benefits Other Than Pensions in Part 32*, 11 FCC Rcd. 2957 (1996) ("*RAO Rescission Order*").

[34] *RAO Rescission Order* ¶¶ 20-37.

[35] *Id.* at ¶ 29.

[36] *Id.* at ¶ 33.

[37] *Id.*

1996-97 tariffs seeking to increase rates based upon restatements of their rate bases, not only for the then-current 1995 calendar year, but also for 1994, and in some cases, 1992 and 1993 as well.[38]

Specifically, the LECs filed new Forms 492 (the document on which the LECs report their rate bases). The LECs then used the recomputed – and greatly inflated – rate bases on those restated Forms 492 to compute what their sharing obligations would have been in each year had they been allowed to state their rate bases without deduction of zero-cost OPEB amounts for each of those years. The LECs then added up the amount by which they claim to have "over shared" for each of those years and sought an exogenous PCI increase in their 1996-97 tariffs.[39] Several ratepayers, including AT&T, opposed this massive PCI increase and obvious end-run around the Commission's rules.

On June 24, 1996, the Bureau agreed that the LECs' proposed tariffs "raise substantial questions of lawfulness," and therefore suspended the tariffs and ordered an investigation.[40] With respect to the inclusion of OPEB costs in the rate base, the Bureau stated:

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[38] In contrast, in 1997 when the Commission issued its final Order confirming the policy behind *RAO 20 Letter*, the LECs were not eager to reverse the restatements of their rate bases. In fact, AT&T's review shows that, except for BellSouth, none of the LECs noted in their 1997 Form 492s the required change in the rate bases. It is unclear whether the required change was ever implemented.

[39] Specifically, some LECs sought an exogenous increase in their 1996 PCIs for the years 1992 and 1993; the LECs also restated the rate base for 1994 on their Form 492s, and in effect sought an exogenous increase in the PCIs to recover the difference between the actual and restated sharing amount for the 1995 tariff year; and the LECs put OPEBs in their 1995 rate bases, which resulted in a lower sharing adjustment for 1996 than would have been the case if OPEBs had been deducted.

[40] Memorandum Opinion and Order, *1996 Annual Access Tariff Filings; National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates; NYNEX Telephone Company Petition to Advance the Effective Date of the 5.3 X-Factor to January 1, 1995*, 11 FCC Rcd. 7564, ¶ 4 (1996) ("*Suspension Order*").

> Contrary to the LECs' view, we are not persuaded at this point that the *RAO Rescission Order* requires them to include OPEB costs in the rate base, or, that it would be consistent with the current rules for them to do so. Rather, we view the *RAO Rescission Order*, as stated by the Commission, as procedural in nature, leaving open the question of the correct rate base treatment of OPEBs under current rules.[41]

The Bureau thus concluded that the "LECs' rate base treatment of OPEBs raises a substantial question of lawfulness under existing rules that warrants investigation."[42]

The Bureau also "agree[d] with AT&T that the LECs have failed to document and explain the derivation of the rate base adjustments underlying the revisions."[43] In addition, the Bureau agreed that "there is a substantial question, as argued by AT&T, whether the adjustments made by [certain LECs] for the 1992-1994 period may have included more in their rate bases than they previously excluded pursuant to *RAO 20*, thereby overstating their rate base calculations for the 1992-1994 period."[44] Further, the Bureau noted, "it is unclear whether the LECs that have included accrued OPEB liability costs in their rate base for prior years have calculated correctly the impact of these costs on other indices."[45] For these reasons, the Bureau "conclude[d] that the LECs' treatment of OPEB costs in their 1996 access filing raises a substantial question of lawfulness that warrants investigation."[46]

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[41] *Id.* ¶ 19.

[42] *Id.*

[43] *Id.* ¶ 20.

[44] *Id.*

[45] *Id.*

[46] *Id.* The Bureau also pointed out that certain LECs had "included OPEB costs in their rate base for 1992-1993 period"; that "the LECs' exogenous treatment of OPEB costs for the 1992-1993 period are currently the subject of the Commission investigation"; and therefore that "to the extent that these LECs are seeking to include these OPEB costs in their rate base as well as

On February 20, 1997, only 9 months after the rescission of the *RAO 20 Letter*, the Commission adopted its tentative conclusion (on a prospective basis) to adopt the same rate base treatment for OPEB costs as directed by the *RAO 20 Letter*.[47] The Commission explained that "the Bureau was correct in [its] conclusion" in the *RAO 20 Letter* that OPEB benefits are similar to pension benefits and should receive similar rate base treatment, and that because these amounts represent "zero-cost sources of funds, rates should not provide a return on those amounts."[48] Thus, since FASB issued SFA-106, the Commission and the Bureau have consistently found, whenever they have been presented with the merits of these issues, that unfunded OPEBs should be deducted from the rate base and that rate increases to recover OPEBs are improper.

The Commission did not in the 1997 order, however, conclude the ongoing investigation into the LECs' 1996-97 tariffs, where the LECs had retroactively incorporated unfunded OPEBs into their rate bases and sought massive exogenous cost PCI increases based on those changes. And the Commission has yet to take action on the tariff investigation initiated in June 1996.

ARGUMENT

Under the LECs' theory, they are entitled retroactively to restate their 1992, 1993, 1994, and 1995 rate bases to put back zero-cost unfunded OPEB amounts that were previously deducted, to recompute their sharing requirements for each of those years as if the OPEB amounts had never been deducted, to compute the difference between those new sharing requirements and their original sharing requirements, and to recover that difference through a

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seeking exogenous treatment for the same costs, this raises a substantial question of lawfulness and warrants investigation." *Id.* ¶ 21.

[47] *See OPEB Rate Base Order.*

[48] *OPEB Rate Base Order* ¶ 12.

lump sum exogenous cost increase to their 1996 PCIs. The LECs cannot cite any Commission precedent or policy allowing such an adjustment, because the Commission has consistently found that unfunded OPEBs must be deducted from the rate base. Instead, the LECs claim that there is no mechanism available to the Commission in this tariff proceeding to stop them from making these exogenous cost PCI adjustments. According to the LECs, the Commission opened the door to allow the LECs to implement their scheme when it rescinded – on purely technical grounds – the *RAO 20 Letter* in May 1996. The LECs assert that because the Commission did not act to reinstate the OPEB-related restrictions that were contained in the *RAO 20 Letter* until February 1997, the LECs had a nine month window of opportunism in which to seek and obtain otherwise patently unlawful PCI increases in the 1996-97 tariffs, and that there is nothing the Commission can do to stop them. The LECs are wrong.

To prevail on these claims, and to obtain the PCI increases they seek, the LECs must establish that: (1) they have an unassailable right as a matter of law for each of the four years preceding the 1996 tariff filings retroactively to add to their rate bases unfunded OPEBs that they previously deducted; (2) those rate base additions entitle them as a matter of law to make exogenous cost increases to their PCIs to reflect reduced sharing obligations for those prior years; and (3) they have met their burden of proof to demonstrate with record support that they performed the rate base, sharing and PCI calculations correctly, adding no more than was previously deducted and reflecting all of the relevant offsetting effects. The LECs have not and cannot establish even one, much less all three, of these prerequisites to the massive rate hikes that they seek.

I. THE LECS HAVE IMPROPERLY INCLUDED OPEBS IN THE RATE BASE.

In all relevant years prior to the filing of the tariffs under investigation (1992-95), the LECs *deducted* unfunded OPEBs from their rate bases. Following the issuance of SFAS-106 in 1991, the Bureau, relying upon the longstanding rate base treatment of functionally identical unfunded pension benefits, directed the LECs to deduct Account 4310 unfunded OPEBs from their rate bases (just as they already did with respect to unfunded pension benefits in the same account).[49] And since the Bureau's ruling, the Commission has consistently agreed with the Bureau that OPEBs must be deducted from the rate base, and has rejected all of the LECs' arguments to the contrary. *See OPEB Rate Base Order* ¶ 19 ("because the amounts in Account 4310 are zero-cost sources of funds, rates should not provide a return on those amounts" and therefore they must be deducted from the rate base); *see also id.* ¶ 17 (rejecting LEC arguments). Accordingly, the fact that OPEBs must be deducted from the rate base can longer be disputed as a substantive matter. This entire proceeding therefore concerns the LECs' attempts to manufacture procedural gimmicks to prevent the Commission from reaching that same plainly correct result in this tariff investigation.

The relevant regulatory policies – and the application of those policies to OPEBs – are both well established. As the Commission has consistently held, the rate base is meant to encompass the assets which are funded by investor-supplied capital on which the utility is entitled to a return.[50] As the Commission's rules provide, the rate base calculation begins with

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[49] *See RAO 20 Letter.*

[50] *See, e.g., RAO Rescission Order* at ¶ 1 n. 3 ("[T]he interstate rate base consists of amounts that are prudently invested in plant that is used and useful in the provision of interstate telecommunications services").

the "used and useful" assets that are used to provide the regulated services.[51] The Commission has long recognized, however, that carrier must make certain critically important deductions to the rate base to reflect the carriers' access to and use of capital that was not supplied by investors.[52] As the Commission has repeatedly emphasized, such "zero-cost sources of funds, those funds provided to a carrier without cost to the investors, [must] be removed from the rate base."[53] Because the source of the zero-cost funds is not the carriers' investors, the investors are not entitled to a ratepayer return on those funds.[54]

OPEBs clearly are, and always have been, zero-cost funds and, therefore, should be deducted from the rate base. Unpaid OPEB amounts (typically medical, life, and dental insurance) are "a form of deferred compensation that employees earn during their working years."[55] That is, OPEB benefits are benefits owed to employees for current work. Under the accrual method of accounting required by SFAS 106, companies must "recognize OPEB costs as expenses during the years the benefits are earned and . . . record a liability for benefit amounts owed to employees" (which is then recorded in Account 4310).[56] What is important for present purposes is that the carriers recover their OPEB expenses in current periods (by paying employees less cash compensation for work that produces positive returns), but the expenses are unpaid until future periods. The unfunded liabilities make capital available to the LEC that it

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[51] 47 C.F.R. § 65.820.

[52] *See* 47 C.F.R. § 65.830(a)(1) (deferred taxes deducted from rate base); *id.* at § 65.830(a)(3) (other long-term liabilities in Account 4300, which includes unfunded, accrued pension liabilities, deducted from rate base).

[53] *RAO Rescission Order* ¶ 33 & n.78.

[54] *Id.* ¶ 33.

[55] *Id.* ¶ 4.

[56] *Id.* ¶ 33.

uses for investment at no cost to investors. *RAO Rescission Order* at 33 ("[w]here carriers have accrued OPEB costs, but have not paid their OPEB liability, the recovered but unpaid costs are capital available to the carrier at no cost").

Because unfunded OPEB liabilities are a form of zero-cost capital to a LEC, the Commission has expressly recognized that they must be deducted from the rate base. The Commission found that the Bureau's RAO 20 Letter was "correct" because OPEBs "are similar to pension benefits, which are deducted from the rate base pursuant to Part 65;" accordingly, "accrued OPEB costs should receive similar treatment."[57] "[B]ecause the amounts in Account 4310 are zero-cost sources of funds, rates should not provide a return on those amounts."[58]

The LECs therefore have no *substantive* defense of the retroactive rate base adjustments that they seek. Rather, their defense is purely procedural. In their view, the temporal gap between the Commission's rescission of RAO 20 in 1996 and the adoption of the *OPEB Rate Base Order* in 1997 created an opening for the LECs to add back OPEB costs that were (quite properly) deducted from the rate base, to re-calculate their sharing amounts for those years as if OPEBs had never been deducted from the rate base, and to obtain lump sum exogenous cost increases to their 1996-97 PCIs to recover the difference between the original and recomputed

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[57] *OPEB Rate Base Order* ¶ 19.

[58] *Id.* The Commission has already considered and rejected the LECs' counterarguments. Indeed, in the 1996 OPEB rulemaking that the Commission initiated when it rescinded RAO 20, the LECs did not dispute that OPEBs are unfunded postretirement benefits that function as zero cost capital. Instead, some of the LECs argued that the accrued OPEB liabilities should be included in the rate base because they were not factored into the initial price cap rates and, therefore, had never been "recovered" by carriers, either through rates or through exogenous cost treatment. *See Ameritech Comments* at 2-3; *Bell Atlantic Comments* at 1-4; *Pacific Bell Comments* at 3-4. Not surprisingly, the Commission rejected this argument out of hand, ruling in the *OPEB Rate Base Order* (at ¶ 17) that "[t]o the extent that carriers are earning a positive return on assets funded in part by the liabilities recorded in Account 4310, these carriers are recovering their OPEB costs."

sharing amounts. The LECs appear to believe that this result is compelled by the Commission's rescission of the *RAO 20 Letter* and by Rules 65.820 and 65.830, which list general categories of costs that are to be included and deducted from the rate base. In other words, the LECs argue that the Commission is caught in a procedural "gotcha," in which it is constrained under pre-1997 rules that it must mechanically follow in this proceeding and that prevent it from reaching the correct result and excising the windfalls from the LECs' 1996-97 rates.

The LECs' procedural claims are meritless for several reasons. First, this tariff investigation is itself a rulemaking proceeding, in which the Commission can implement or change rules that would lead to outcomes that contravene the public interest or violate Commission policy. It is well-settled that "a tariff investigation is a rulemaking of particular applicability under the APA."[59] Accordingly, "[t]he Commission routinely makes significant policy and methodological decisions based on the records developed in tariff investigations and such decisions do not violate the notice and comment requirements of the [APA]."[60] Here, the Commission acknowledged that OPEBs could be excluded from the rate base if affected parties were given notice and an opportunity to comment,[61] and this tariff investigation in which these issues were expressly raised plainly provides affected carriers "with full notice and opportunity to comment" on proposed policies consistent with the APA.[62] Thus, the LECs' claims that the Commission is somehow trapped by its own rules from prohibiting LECs from adding unfunded OPEB amounts to their rate bases must be rejected.

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[59] *See, e.g., Access Reform Tariff Order* ¶ 81 (quotation omitted); Memorandum Opinion and Order, *Implementation of Special Access Tariffs of Local Exchange Carriers*, 5 FCC Rcd. 4861 (1990); 5 U.S.C. § 551(4).

[60] *Access Reform Tariff Order* ¶ 81.

[61] *OPEB Rate Base Order* ¶ 28.

The *Suspension Order* itself effectively acknowledges (¶ 19) that resolving the question whether OPEBs should be included in the rate base is entirely appropriate in the context of this tariff investigation. To be sure, the Commission's pre-1997 Part 65 rules did not *explicitly* address the question of the rate base treatment OPEBs in the wake of SFAS-106, but this is precisely the sort of uncertainty that the Commission can clear up on a full record in a tariff investigation, which is a rulemaking under the APA.[63] The Commission expressly noted in the *Suspension Order* that the *Rescission Order* "leav[es] open the question of the correct rate base treatment of OPEBs under the current [*i.e.*, pre-1997] rules," and it was on that basis that the Commission found a "substantial question of lawfulness under existing rules" and suspended the tariff.[64]

Indeed, the Commission has never read the Part 65 list of inclusions and deductions to be so rigidly exclusive as to preclude case-by-case consideration of the appropriateness of particular costs that are not specifically addressed in those rules. For example, in 1995 the Commission found that Ameritech had been improperly including an equity component in its cash working capital allowance, which is included in the rate base. Ameritech contended that "because the equity component was not specifically listed among the exclusions [in the Part 65 rules], it can

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[62] *Access Reform Tariff Order* ¶ 81.

[63] The fact that the Commission issued an NPRM to clarify in its rules that OPEBs were to be excluded from the rate base does not change this conclusion. A pending NRPM in no way precludes the Commission from independently addressing the issue in the context of a tariff investigation if (as here) LECs file tariffs after the issuance of the NPRM but before issuance of the final rule. *See* Report and Order and Further Notice of Proposed Rulemaking, *Defining Primary Lines*, 14 FCC Rcd. 4205, ¶ 27 n.69 (1999) (noting that the Commission intended to address any possible changes to the definition of primary lines for rate-of-return carriers "in a separate rulemaking proceeding," but that "[i]f necessary, the Commission can address the issue in the context of a tariff investigation before completion of that rulemaking proceeding.").

be included in cash working capital calculations pending further, more specific pronouncements by the Commission."[65] Ameritech argued that "the applicable rule, Section 65.820(d), continues to be worded in a way that permits the inclusion of an equity component in the development of the cash working capital allowance."[66] The Commission rejected that argument, and stated that "even if the Commission did not specifically exclude equity from cash working capital in the [original rules], the omission in the order cannot logically or legally be relied upon to justify including equity in earlier calculations [*i.e.*, calculations prior to the Commission's later order clarifying that equity was to be excluded]."[67]

This is the only sensible interpretation of the Part 65 rule, and Commission authority in the context of tariff proceedings. The LECs' interpretation, by contrast, would establish an entirely one-sided system that would unfairly and systematically favor the LECs. LECs are constantly presented with new costs and new accounting standards. If the Commission was constrained to deal with each new gray or unanticipated area in a full-blown rulemaking, and if it had no ability to make case-by-case determinations of the appropriateness of rate base adjustments in the context of tariff investigations, the LECs would be able immediately to incorporate all rate base adjustments that are favorable to them, while (as here) ignoring all adjustments that are unfavorable until the Commission can complete a traditional rulemaking

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[64] *Suspension Order* ¶ 19; *see also id.* ("it would be possible to interpret our rules to permit a case-by-case evaluation of the correct rate base treatment of costs not explicitly identified in Part 65").

[65] *See* Order to Show Cause, *Ameritech Operating Companies*, 10 FCC Rcd. 5606, Appendix A ¶ 6 (1995).

[66] *Id.* ¶ 5.

[67] *Id.* ¶ 6.

proceeding and specify that such adjustments must be made. The Commission could not have intended such a scheme when it promulgated the Part 65 rules.

These precedents admit of only one outcome here. The Commission should prohibit the LECs from retroactively adjusting their rate bases to include zero-cost OPEB capital. The LECs' actual rate base treatment of the OPEBs during the period from 1992-96 was plainly correct, because OPEBs are in fact zero-cost funds on which investors are not entitled to a return. A return on those OPEB costs is no more appropriate in 1996 than it was in 1992, 1993, 1994, or 1995. A prospective adjustment that would allow substantial rate *increases*, based solely on the LECs' inclusion of these zero-cost funds in the rate base in prior years, would serve no purpose other than to provide the LECs and their investors with a substantial and unjustified windfall, at the expense of ratepayers. Such an outcome is plainly at odds with the Act's requirement that the Commission approve rates that are "just and reasonable" and consistent with the public interest.[68]

Rejecting the LECs' request to restate their prior years' rate bases for purposes of calculating the LECs' current sharing requirements would not be retroactive ratemaking. As noted, the LECs, in actuality, deducted unfunded OPEBs from their rate bases throughout the period 1992-94. Precluding the LECs from adjusting their PCIs to reflect the LECs' re-calculated sharing obligations for those years is therefore fully consistent with the LECs' actual tariffs and accounting practices in previous years, and requires no "retroactive" assumptions or adjustments. Indeed, it is the LECs that seek a special adjustment to adjust their price caps *as if* they had not deducted these costs in the past.

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[68] 47 U.S.C. §§ 201, 202.

This underscores a fundamental flaw in the LECs' position: their entire argument is predicated on the assumption that *if* there had been no *RAO 20 Letter* in 1992, the LECs would have been permitted to include unfunded OPEB costs in their rate bases for the period 1992-95. But that is plainly wrong. If the LECs had attempted to include such costs in 1993, ratepayers would have challenged *those* tariffs, and in the context of those tariff investigations the Commission would have clarified in 1993 (as it later did in 1997) that unfunded OPEBs should be deducted from the rate base. The fact that the Commission issued that clarification in 1992 in the form of a procedurally improper Bureau letter is a fortuity that does not preclude the Commission from recognizing in this tariff investigation that unfunded OPEB costs must be deducted from the rate base. Accordingly, the LECs should not be permitted to adjust their 1996-97 rates to recover OPEB amounts that were properly deducted in past years.

II. EVEN IF THE LECs COULD RESTATE THEIR RATE BASES TO REVERSE OPEB-RELATED DEDUCTIONS, THOSE ADJUSTMENTS CANNOT BE A BASIS FOR EXOGENOUS COST PCI INCREASES.

The only reason that the LECs seek to restate their rate bases for past years is to recalculate their sharing obligations in those years and recover the difference in current rates through an exogenous cost *increase* to their current PCIs for the 1996-97 tariff period. What the LECs seek is not the routine sharing adjustment governed by Rule 61.45(d)(2), as they claim, but something very different: to recover money in their 1996-97 tariffs that they *could* have earned two, three, and four years earlier if OPEBs had not been deducted from the rate base in those years and their sharing obligations had been smaller. The Commission's rules absolutely prohibit LECs from implementing *any* exogenous changes to their PCIs that are not explicitly permitted by rule without Commission approval by "rulemaking, rule waiver, or declaratory

ruling."[69] Given that the OPEB-related exogenous PCI adjustments that the LECs seek were not explicitly permitted by rule, and that the LECs did not obtain or even seek prior approval from the Commission through a waiver or declaratory ruling, the Commission should reject these exogenous cost increases on that basis alone.

But regardless of whether the purported sharing adjustment is governed by Rule 61.45(d)(2), the Commission had independently, specifically and absolutely prohibited exogenous cost increases which are designed to implement accounting changes that do not reflect "economic cost changes."[70] And, the Commission had explicitly concluded that the unfunded OPEBs at issue here are exactly the type of accounting changes that have no economic cost impact. Thus, the LECs' proposed exogenous cost changes are (and were at the time they were filed) unlawful.

In all events, even if the LECs could overcome these specific legal prohibitions against obtaining exogenous cost treatment of unfunded OPEB amounts, the Commission's rules in effect in 1996 absolutely prohibited LECs from changing their 1992 and 1993 rate base calculations to obtain such exogenous cost increases. As demonstrated below, the Commission's rules prohibit rate base changes after 15 months from the end of the calendar year to which rate base calculations apply. 47 C.F.R. § 65.600(d). The LECs time to amend their 1992 and 1993 rate bases therefore expired well before 1996. Thus, the LECs could not, without special Commission approval (which they did not seek, much less obtain), lawfully amend their 1992 and 1993 rate bases in 1996.

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[69] *1995 Price Cap Performance Order* ¶ 318.

[70] *Id.* ¶ 293.

A. The Commission's Rules Prohibit The Exogenous Cost Increases Sought By The LECs Absent A Waiver.

The Commission's rules prohibit LECs from implementing exogenous changes to their PCIs that are not explicitly permitted by rule without Commission approval by "rulemaking, rule waiver, or declaratory ruling." *1995 Price Cap Performance Order* ¶ 318; 47 C.F.R. § 61.45(d). No rule existing at the time of the tariff filings allowed OPEB-related exogenous cost increases, and the LECs did not even seek, must less obtain, a waiver or a declaratory ruling authorizing the exogenous cost increases. That should be the end of the matter.

The LECs claim that the exogenous cost increases they seek are allowed by 47 C.F.R. § 61.45(d)(2), which is the general rule that requires LECs to make exogenous adjustments to their PCIs each year to implement their sharing obligations. In essence, the LECs claim that, although they actually deducted unfunded OPEBs from their rate bases in 1992-94 and based sharing obligations on those properly adjusted rate bases, if the Commission allows them retroactively to restate their rate bases, that will necessarily allow them retroactively to restate their sharing obligations in a way that will automatically trigger an exogenous sharing-related *increase* in their current PCIs.

The LECs badly misread Rule 61.45(d)(2). That rule requires LECs each year to make "temporary exogenous cost changes as may be necessary to reduce PCIs to give full effect to any sharing of base period earnings required by the sharing mechanism set forth in the [*1990 Price Cap Order*]." All Rule 61.45(d)(2) requires (or permits) is that the carrier determine its earnings in the *base* period, which is the calendar year preceding the tariff filing[71] – here, calendar year 1995 – and if those earnings exceed certain thresholds, the carrier is required to reduce its PCIs

[71] *See* 47 C.F.R. § 61.3(e) (defining base period).

according to the formulas set forth in the *1990 Price Cap Order*. This is a simple, mechanical exercise that does not leave any discretion to the LEC.

By contrast, what the LECs seek here goes far beyond the scope of Rule 61.45(d)(2). The LECs' calculations do not confine themselves to calendar year 1995. Rather, the LECs seek (1) retroactively to put zero-cost OPEB funds into the rate base in 1992, 1993, 1994, and 1995; (2) to recalculate their earnings in those years, based on the restated rate bases; (3) to recalculate the sharing obligations from those years, based on the recalculated earnings; and (4) to add those "lost" sharing amounts in a lump sum to their 1996-97 PCIs in an upward exogenous adjustment. *None* of these calculations is contemplated in Rule 61.45(d)(2) or the *1990 Price Cap Order*.

This fact is confirmed by the plain language of Rule 61.45(d)(2), stating that LECs "shall . . . make . . . exogenous cost changes as may be necessary to *reduce* PCIs to give full effect to any sharing of base period earnings." 47 C.F.R. § 61.45(d)(2) (emphasis added). This language makes clear that the mechanical calculation contemplated in Rule 61.45(d)(2) (i) is confined to base period earnings and (ii) could only result in a reduction to the PCI. The LECs' calculations, which result in substantial increases to PCIs based upon rate base and earnings restatements well beyond the base period, are obviously not permitted by or even contemplated by the sharing rule.

Any exogenous adjustment to the caps to correct for years before the "base period" is beyond the scope of Rule 61.45(d)(2). It is clear, therefore, that what the LECs are really seeking is a special exogenous adjustment that is not permitted or required by any existing rule. Under the *1995 Price Cap Performance Order* (¶ 318), the LECs are not permitted to implement such exogenous adjustments without specific permission from the Commission either by "rulemaking, rule waiver, or declaratory ruling." The LECs' did not request, much less obtain, such permission from the Commission.

B. The Commission's Rules Absolutely Prohibit The Exogenous Cost Changes Sought By the LECs.

Not only does Rule 61.45(d)(2) not apply, but at the time of these tariff filings the Commission had already independently and absolutely *prohibited* the sort of exogenous cost adjustment the LECs seek here, because those adjustments are designed to implement accounting changes that have no economic or cash flow impact. *See 1995 Price Cap Review Order* ¶ 295. Thus, the exogenous cost increases the LECs seek would be unlawful even if they did fall within the scope of Rule 61.45(d)(2). For the same reason, no waiver or declaratory ruling seeking authority to make these changes would have been warranted, even if the LECs had sought it.

The Commission's rules originally stated that carriers could implement exogenous PCI adjustments related to changes in USOA accounting only if (1) the USOA accounting change was outside the LECs' control and (2) the impact of the USOA accounting change was not already reflected in the "GDP-PI" adjustment. *See 1995 Price Cap Performance Order* ¶ 292. In 1995, the Commission announced a "third prong": any proposed PCI adjustment based on USOA accounting rule changes are appropriate only to the extent that those changes reflect "economic cost changes" to the LEC. *Id.* ¶ 292. The Commission explained that even "when an accounting change that *otherwise meets the existing standards for exogenous treatment*," exogenous cost PCI increases are allowed *only* if the accounting change "also affects cash flow." *Id.* "[W]ithout a cash flow impact, carriers will not be able to raise PCIs to recognize an accounting change." *Id.* ¶ 294.[72] Thus, the Commission summarized its test as follows: "we will limit exogenous cost treatment of cost changes resulting from changes in USOA

[72] *See also 1995 Price Cap Performance Order* ¶ 308 ("[c]onsistent with our new [economic cost] rule, we also conclude that LECs must adjust their PCIs to exclude prospectively *any* accounting cost changes currently reflected for which carriers did not incur an economic cost" (emphasis added)).

requirements to *economic cost changes* caused by [action] *beyond the control of carriers* which are *not reflected in the GDP-PI*." *Id.* ¶ 293 (emphasis added).

At the same time, the Commission explained the accounting changes relating to unfunded OPEB amounts are exactly the type of accounting changes that have no economic cost or cash flow impact. Accordingly, the Commission held that such accounting changes cannot be grounds for seeking an exogenous PCI increase. As explained by the Commission, "LECs are not required to change their OPEB commitments to employees, but merely to change the timing of the recognition of these costs on their books," and therefore, "SFAS-106 has had little or no effect on the opportunity cost and economic cost to the LECs." *1995 Price Cap Performance Order* ¶ 307. Thus, "most if not all of the ongoing cost changes resulting from the adoption of SFAS-106 will not be eligible for exogenous cost treatment under our revised rule on a prospective basis." *Id.* ¶ 307.

On this record, it is clear that the LEC's 1996-97 tariffs seeking PCI exogenous cost increases for all of the unfunded OPEB accounting changes must be rejected because they squarely violate the *1995 Price Cap Performance Order*. It is no answer to say that those exogenous cost changes are based on recalculations of the rate base for prior years, which led to changed sharing amounts. Nor is it an answer to say that those changes are permitted by Rule 61.45 (which, as demonstrated above, they are not). The prohibitions in the *1995 Price Cap Performance Order* apply regardless of how many steps, or what names are applied to zero-cost unfunded OPEB exogenous cost changes. As noted, the Commission emphasized that "an accounting change that *otherwise meets the existing standards for exogenous treatment*," cannot be used to seek an exogenous PCI increase unless the accounting change "also affect[ed] cash flow." *Id.* ¶ 295. Here it is undisputed – and the Commission has affirmatively found – that the

unfunded OPEB accounting change has no affect on the LECs' cash flow, and therefore cannot be a basis for seeking an exogenous PCI increase.

C. There Are Additional Prohibitions Against The LECs Seeking Exogenous Cost Changes Based On 1992 And 1993 Rate Base Adjustments.

Even if the LECs could in theory overcome the myriad legal barriers to seeking retroactive rate increases for the zero-cost unfunded OPEB amounts, the LECs still would be absolutely barred by the Commission's "15-month" rule from obtaining such changes for 1992 and 1993. The Commission's rules require price cap carriers to report rate base and other information (on Form 492) for each year within 3 months of the end of the calendar year. That data is used to compute sharing amounts, and to implement PCI exogenous cost changes pursuant to Rule 65.600(d)(2). 47 C.F.R. § 65.600(d)(2). If a price cap carrier determines that the reported information is inaccurate, it can correct and update the form. However, all such changes "shall [be] file[d] with the Commission within fifteen (15) months after the end of each calendar year." 47 C.F.R. § 65.600(d)(2).

As noted, a portion of the 1996-97 exogenous PCI cost increases sought by the LECs is based on changes to their 1992 and 1993 rate base reports (Form 492). In particular, the LECs seek to amend their 1992 and 1993 rate base reports, and then, based on those changes, the LECs seek to recalculate their sharing obligations for those years and obtain an exogenous cost increase in their 1996-97 tariffs to reflect those changes. But the 15 month deadline for amending the 1992 and 1993 rate base reports expired on March 31, 1994 and March 31, 1995, respectively. Therefore, absent a Commission waiver from the 15-month rule (which the LECs did not seek), the LECs were barred in March 1996 from changing their 1993 and 1994 rate base reports. And without changing those reports, there is no basis for the LECs to recompute their sharing obligations for 1992 and 1993 and, hence, no basis for the 1996-97 PCI adjustments they

seek. Accordingly, the Commission can (indeed, under its rules must) reject the LECs' attempts to amend their 1992 and 1993 rate base reports.

III. EVEN IF RAO 20 COSTS ARE ALLOWED IN THE RATE BASE, THE LECS HAVE FAILED TO PROVIDE ADEQUATE COST SUPPORT AND HAVE IGNORED THE OFFSETTING EFFECTS OF THE INCREASED RATE BASE.

Even if the LECs could have lawfully increased their PCIs based upon OPEB-related rate base adjustments – and, as demonstrated above, they plainly could not do so – these particular rate increases would still have to be rejected. In its original Petition of April 29, 1996, AT&T pointed out several critical deficiencies in the LECs' cost support as well as the LECs' failure to recognize the effect of increasing the rate base on other indices. The LECs filed responses and in some cases submitted additional documentation. Upon reviewing all of the evidence, however, the Bureau concluded:

> [W]e agree with AT&T that the LECs have failed to document and explain the derivation of the rate base adjustments underlying the revisions. *We agree with the petitioners that the lack of cost support information makes it impossible to verify the accuracy of the LECs' rate base adjustments.* . . . Further, *it is unclear whether the LECs that have included accrued OPEB liability costs in their rate base for prior years have calculated correctly the impact of these costs on other indices.* Accordingly, for the foregoing reasons, we conclude that the LECs' treatment of OPEB costs in their 1996 access filing raises a substantial question of lawfulness that warrants investigation.[73]

This is the state of the record as it now exists. Seven years have passed, but it remains true that the LECs have failed entirely to support the rate base additions that they claim are necessary to reverse rate base deductions they contend they made in response to RAO 20. The LECs, of course, bore the burden of proof in this rate proceeding,[74] and their failure to provide

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[73] *Suspension Order* ¶ 20.

[74] The Commission has consistently imposed the burden on carriers to support their tariff filings. *See* 47 U.S.C. § 204 (a). In the 1996 TRP Order, the Commission expressly warned that carriers "remain obligated to submit adequate supporting documentation" for their annual access filings.

the support necessary to verify the accuracy of their rate base adjustments would require rejection of the tariffs even if properly supported rate base increases would have been lawful. Moreover, it remains clear that even if the LECs had used – and supported – the "right" rate base numbers, their methodology fails entirely to recognize the offsetting effects of the increased rate base other than on sharing reductions.

A. The LECs Have Failed to Adequately Support Their Calculations of the Rate Base Adjustments.

The LECs have failed to explain how they arrived at the amounts representing the OPEB costs which they "added back" into their rate bases. The LECs' cost support materials suffer from three major flaws:

- The LECs' work papers do not provide enough detail to ensure that only the OPEB-related portion of Account 4310 was added to their rate bases.
- The work papers do not specify that a corresponding adjustment was made to remove from the rate base Account 1410 amounts for prepaid OPEBs even though under the LECs' own theory the *RAO Rescission Order* necessarily had the effect of nullifying any authority to *add* Account 1410 amounts to the rate base if it had the effect of nullifying the requirement to deduct Account 4310 amounts.
- At least one LEC appears to have added to the rate base more OPEB-related Account 4310 amounts than was deducted in response to the *RAO 20 Letter*.

1. Adding ambiguous "Account 4310" amounts rather than only the OPEB-related sub-accounts of Account 4310.

Account 4310 includes many kinds of "Other Long-Term Liabilities," including accrued pension costs and death benefits, which have at all relevant times been required to be deducted from rate bases (because they, like unfunded OPEB benefits, are zero-cost sources of funds that investors do not supply). Only a few LECs provided any indication that they were adding to

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In the Matter of Support Material to Be Filed with 1996 Annual Access Tariffs, 11 FCC Rcd. 10255, 10269 n. 1.

their rate bases only OPEB-related expenses from Account 4310. US West provided a description of its OPEB-related sub-accounts, and BellSouth and Nevada Bell included sub-account numbers, but without any description.[75] The other LECs' work papers simply referred to generic "Account 4310" amounts. Every carrier has its own system of sub-accounts. Having failed to provide work papers demonstrating that only the OPEB-related sub-accounts of Account 4310 were added, the LECs have made it impossible to verify their rate increases.[76]

2. Failure to specify whether OPEB-related Account 1410 amounts, which were previously added to the rate base under RAO 20, were deducted upon rescission of RAO 20.

The *RAO 20 Letter* originally directed not only the deduction from the rate base of unfunded OPEB amounts in Account 4310 but also the *addition* to the rate base of prepaid OPEB amounts in Account 1410. If the Commission accepts the LECs' flawed legal theory that the rescission of the *RAO 20 Letter* had the substantive effect of retroactively nullifying any rate base authority or prohibition granted by the *RAO 20 Letter* (and precluding the Commission in this rulemaking proceeding from deviating from the LECs' cramped construction of the rate base rules that existed at the time the *RAO 20 Letter* was in effect), the rescission necessarily also had the effect of requiring the LECs to *deduct* from their rate bases OPEB-related Account 1410 amounts that they had previously added to their rate bases in reliance upon the *RAO 20 Letter*. As the Commission noted in the *RAO Rescission Order*:

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[75] Pacific Bell described its RAO adjustment as "Account 4310 related to SFAS 106" without any explanation of the relevant sub-accounts.

[76] Without specific information identifying the OPEB sub-accounts in Account 4310, it is impossible to determine what portion of Account 4310 is OPEB-related, even if the total amount in Account 4310 is provided in the ARMIS filings.

> Under our current rules, with the rescission of the rate base portion of RAO 20, prepaid pension costs recorded in Account 1410 are included in the rate base, but *prepaid OPEB costs recorded in Account 1410 are not included in the rate base.*[77]

If the LECs are allowed to rely upon the *RAO Rescission Order* to add Account 4310 OPEB costs, then they must also be required to deduct the Account 1410 prepaid OPEB costs previously included. Only BellSouth and Nevada Bell claim to have provided for a deduction of previously-included prepaid OPEB costs, and the documentation for those deductions is itself patently inadequate. BellSouth Exhibit A, page 2, Line 4(c); Response of Nevada Bell, Attachment A. Accordingly, if, contrary to law, the Commission were to allow any Account 4310 OPEB-related additions, it plainly would need to require the LECs to deduct properly supported Account 1410 OPEB-related amounts.[78] From the work papers submitted, it appears that almost all the LECs have failed to provide any documentation of the deduction of Account 1410 amounts.

3. Addition of more Account 4310 costs than were originally deducted from the rate base under RAO 20.

What cost support the LECs have provided gives rise to serious concerns. In its 1996 Order, the Commission recognized that:

> [T]here is a substantial question, as argued by AT&T, whether the adjustments made by Ameritech and Bell Atlantic for the 1992-1994 period may have included more in their rate bases than they previously excluded pursuant to RAO 20, thereby overstating their rate base calculations for the 1992-1994 period.[79]

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[77] *RAO Rescission Order* ¶ 30 (emphasis added).

[78] From the meager information provided, AT&T is unable to discern which portion of the amounts in Account 1410 is due to prepaid OPEB costs.

[79] *Suspension Order* ¶ 20.

Ameritech, for example, appears to have added approximately $37 million more to its 1993 rate base than it had previously deducted pursuant to the *RAO 20 Letter*. AT&T's analysis of this discrepancy, based on Ameritech's Direct Case filing in 1995, shows that Ameritech should have reflected an average of $14.7 million of increase in its rate base as a result of the implementation of SFAS-106 in 1993. But Ameritech's 1996 tariff filing shows a 1993 over 1992 OPEB change of $51 million. This analysis is detailed in Appendix A. It is likely that the same erroneous methodology was applied to the entire period from 1992-1994, compounding the downward effect on Ameritech's sharing obligations. Plainly, no LEC can justify adding to its rate base more than it originally deducted while the *RAO 20 Letter* was in effect.

In sum, the inadequacy of the LECs' cost support makes it impossible to verify their rate base adjustments, and it is quite clear that the rate base additions are vastly overstated.[80] The LECs carry "the burden of proof to show that the new or revised charge, or proposed charge, is just and reasonable" under Section 204(a).[81] The Commission should reject their tariffs because they have failed to submit sufficient cost support to justify the inflated OPEB sums in the rate base and the resulting reductions in sharing obligations.

B. The LECs Have Selectively Included Only Those Rate Base Impacts That They Claim Can Be Used to Increase Their PCIs While Completely Ignoring Offsetting Rate Base Effects That, Under Their Theory, Would Reduce PCIs.

In the *1995 Price Cap Performance Order* (at ¶ 315), the Commission warned that "LECs have strong incentives to request only exogenous cost increases, not those that may be

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[80] Other examples of essential supporting data that are conspicuously missing from the filings include the interstate allocation factors used in developing the rate base (only Pacific Telephone and Nevada Bell provided their allocation factors), the adjustments (such as interest or other charges), if any, applied to the underlying cost data, and whether state income taxes were deducted from federal taxes.

[81] 47 U.S.C. § 204(a).

equally valid but would lower the PCIs." And, predictably, the LECs' 1996 tariff filings totally ignore any offsetting effects of adding the Account 4310 OPEB-related costs to their rate bases.

The increased rate base effect of the OPEB adjustments impacts much more than the LECs' rate of return and sharing obligations. These adjustments also affect the development of the LECs' prospective base factor portion ("BFP") revenue requirement that is used to develop the End-User Common Line ("EUCL") Charge. The increased rate base established in the historical period allows the LECs to project a correspondingly higher prospective rate base, which underlies the development of the BFP revenue requirement.[82] Under § 69.104(c), one-twelfth of the prospective BFP revenue requirement is divided by the projected subscriber lines to compute the carriers' EUCL rate. To the extent that a price cap LEC is below the maximum permitted EUCL rate,[83] an increase in the BFP revenue requirement results in higher EUCL rates. Higher EUCL rates result in higher subscriber line revenues. Higher subscriber line revenues reduce the CCL residual revenue requirements that ultimately result in lower CCL rates. Thus, if the LECs were permitted to recalculate their 1992-1995 interstate rate bases, they would also need to recompute their historical SLC and CCL rates.

As an illustration of this effect, AT&T has chosen three carriers whose filings reflect an increase in their interstate rate bases under the *RAO Rescission Order*. Using their work papers, AT&T has quantified the increase in SLC revenues and the corresponding decrease in CCL revenues that would have occurred if the LECs had accounted for all affects of removing

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[82] The LECs complain that the BFP is a projected amount, but the projections must be based on historical data, including the historical revenue requirement.

[83] In 1996, many of the LECs had SLC rates below the maximum permitted monthly SLC rate. Only Bell South was at or near the $6 cap for 1993, 1994, and 1995. NYNEX was at the cap for 1995. The majority of the LECs were not at the cap and thus could have adjusted their SLC rates upwards. Appendix B-1 lists those carriers and their rates during the relevant period.

unfunded OPEB amounts from the 1993 and 1994 rate base. Appendices B-2 and B-3 show the SLC and CCL rate changes for 1993 and for 1994. Considering only these three LECs, the resulting CCL savings for 1994 would have been close to $8.2 million. The CCL savings for 1993 would have been $4.4 million. Thus, contrary to the LECs' unsupported rhetoric, this offsetting effect of the RAO change is not a *de minimis* adjustment that can be ignored.[84]

In short, if the Commission allows the LECs to include OPEB costs in the rate base, it should recognize the full effects of such a restatement, including the effects of the increased revenue requirement to the carriers' SLC and CCL rates. It is simply untenable for the LECs to selectively recalculate one element of their prior PCI calculations – the one element that works in their favor (*i.e.*, sharing) – while ignoring the other effects that significantly offset the claimed reduction in their sharing obligations (*i.e.*, decreased CCL rates).

IV. BY UNLAWFULLY INCLUDING RAO COSTS IN THE RATE BASE, THE LECS HAVE REDUCED THEIR SHARING OBLIGATIONS BY AT LEAST $173 MILLION.

Using the LECs' own submissions, AT&T has calculated the effect of the inclusion of OPEB costs in the LECs' rate base. The reduction in aggregate historical sharing obligations for 1992-1994 was as follows: $4.12 million for 1992, $30.16 million for 1993, $73.04 million for

[84] The argument that there is currently no mechanism in place for the LECs to adjust their SLCs retroactively misses the point. The question here is how much, if at all, *PCIs* should be adjusted to reflect additions to rate base. Whether or not corrections are made for the offsetting effects, the fact that they exist and that they are substantial means that the LECs cannot implement the sole RAO change that benefits them and ignore all the others. Moreover, the LECs' argument that there was no mechanism to increase the SLC simply means that interexchange carriers, such as AT&T, paid more than their share in CCL charges. This is because the LEC's common line revenue requirement is recovered through a combination of SLC and CCL charges. Whatever is not recovered through SLC charges becomes the residual amount recovered through CCL charges. The LECs would not be harmed because they would recover their total common line revenue requirement, whether from SLC or CCL charges while interexchange carriers would pay more than their share in CCL charges.

1994, and $66.01 million for 1995. Appendix C-1 identifies the sharing reductions for each LEC that filed to include OPEB costs in the rate base for 1992 and/or 1993. Appendix C-2 shows the sharing reductions for those carriers that filed to include OPEB costs in 1994. Appendix C-3 shows the sharing reductions for 1995. From the figures now available, the LECs have overcharged by at least $173 million.

CONCLUSION

For the foregoing reasons the Commission should reject the LECs unlawful tariffs and order the LECs to refund ratepayers for the massive overcharges.

Respectfully Submitted,

/s/

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April 8, 2003

CERTIFICATE OF SERVICE

I, Peter M. Andros, do hereby certify that on this 8th day of April, 2003, a copy of the foregoing "Comments of AT&T Corp." was served by U.S. first class mail, postage prepaid, on the parties named below.

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* By Electronic Filing.

** Three Copies.

Appendix A

APPENDIX A

AT&T compared the Direct Case filing of Ameritech in August, 1995, with the 1996 tariff filing at issue.

1. Ameritech's Direct Case provides "Total Company SFAS-106 Net Periodic Costs" for 1993 of $384.1 million and "Total Company Pay-as-you-go" costs for 1993 of $247.3 million.[1] As detailed in Table 1, the difference between these two amounts, adjusted by an interstate factor, would be comparable to the amount representing the change due to OPEB costs from 1992-1993 reflected in the 1996 tariff filing.

2. In its 1996 tariff filings, Ameritech made OPEB adjustments to its 1992, 1993, and 1994 rate base. Ameritech specified a 1992 amount of $31.5 million as the original OPEB-related amount in the rate base. It then specified a 1993 amount of $82.7 million for the following year's OPEB rate base adjustment. *See* Exhibit 13, pages 2 and 3 of the tariff support for this filing and the revised 1992 and 1993 Form 492s.[2] The difference between these two amounts -- $51.2 million --represents Ameritech's estimate of the change in the rate base from 1992 to 1993 for OPEB-related costs.

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[1] In the Matter of Treatment of Local Exchange Carrier Tariffs Implementing Statements of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions", CC Dkt. No. 92-101, Direct Case of Ameritech Operating Companies, June 1, 1992. Exhibit 2. Also Filed as Attachment A to: In the Matter of: 1993 Annual Access Tariff Filings, 1994 Annual Access Tariff Filings, AT&T Communications Tariff F.C.C. Nos. 1 and 2 Transmittal Nos. 5460, 5461, 5462 and 5464, Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 690, NYNEX Telephone Companies Tariff F.C.C. No.328, CC Docket No. 93-193, Phase 1, Part 1, CC Docket No. 94-65, CC Docket No. 93-193, Phase II, CC Docket No. 94-157 ("Direct Case of Ameritech").

[2] *See* Ameritech Transmittal No. 961, filed April 2, 1996, at Appendix 4 for the amended 492s and Exhibit 13 for the calculated sharing adjustments.

TABLE 1

L1	Total Company SFAS-106 Net Periodic Costs.	$384,089	See Footnote 1
L2	Total Company Pay-as–you-go.	$247,348	See Footnote 1
L3	Difference (L1-L2)	$136,741	AT&T Calculation.
L4	Interstate Factor[3]	21.50%	AT&T Estimate
L5	Est. Annual Interstate 4310 over Pay-As-You-Go. (L3*L4)	$29,399	AT&T Estimate
L6	Annual Average Rate Base 4310 Impact. (L5/2)	$14,700	AT&T Estimate

Comparing the $14.7 million change, derived from the 1995 Direct Case data, with the $51.2 million difference, proposed by Ameritech as the OPEB rate base increase for 1993 over 1992, shows that Ameritech overstated its 1993 rate base by $36.5 million. This discrepancy has never been satisfactorily explained.[4]

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[3] AT&T assumed an interstate factor of 21.5% by dividing Ameritech's 1993 rate base adjustment in the 1996 filing, $82.721 million, by its Total Company SFAS-106 Net Periodic Costs from its Direct Case ($82.7M/$384.1M = 21.5%).

[4] In its response, Ameritech criticized AT&T's calculations in Table 1 on two grounds. Opposition of Ameritech of May 13, 1996, at 5 n. 11. First, Ameritech argued that the $247.3 million "Total Company Pay-as-you-go" amount was an estimate, not to be relied upon. However, in its 1995 Direct Case, Ameritech filed a response showing that its 1993 Pay-as-you-go amounts were $255.2 million, only a difference of $8 million. *See* Ameritech's August 14, 1995, Direct Case filing at page 4, item 2. Second, Ameritech argued that the amount in Account 4310 is a "cumulative balance," and that the AT&T Appendix B-3 (now Table 1 above) "incorrectly uses a zero balance starting point in determining the average." *See* Opposition at 5 n. 11. However, even adjusting for the use of the zero starting point by assuming that the entire OPEB change was made at the beginning of the year, the average additional OPEB figure would at most be $29 million. The higher figure of $29 million still differs significantly from the $51 million OPEB increase in the rate base proposed by Ameritech in this case for the 1992-1993.

Appendix B-1

HISTORY OF RBOCS MULTILINE BUSINESS MONTHLY SLC RATES
1991 TO 1996

LEC	1991 MLB SLC	1992 MLB SLC	1993 MLB SLC	1993 w/ GSF MLB SLC	1994 MLB SLC	1995 MLB SLC	1996 MLB SLC
Ameritech	$3.81	$3.83	$4.11	$4.81	$4.79	$4.79	$4.81
Bell Atlantic	$3.97	$4.17	$4.42	$5.02	$5.00	$5.24	$5.30
Bell South	$5.89	$5.93	$5.99	$6.00	$6.00	$6.00	$6.00
NYNEX	$5.16	$4.98	$5.09	$5.58	$5.91	$6.00	$6.00
Pacific Bell	$4.14	$3.94	$4.07	$4.67	$4.72	$4.61	$4.73
Nevada Bell	$6.00	$5.27	$4.89	$5.60	$5.59	$5.31	$5.22
Southwestern	$4.86	$4.65	$5.28	$5.86	$5.90	$5.85	$6.00
US West	$4.74	$4.77	$4.80	$5.44	$5.73	$5.87	$5.72

Source: 1991 - 1996 RBOCs Annual Filing TRPs

Appendix B-2

Re-Calculation of certain LECs' 1993 Annual Filing Carrier Common Line Rates
Due to change in Interstate Rate Base because of RAO-20

Line	Calculation of CCL Residual Revenues 1993 Calendar Results	Source/Calculation	Bell Atlantic Interstate Rate Base	Pacific Bell Interstate Rate Base	Southwestern Bell Interstate Rate Base
1	Final 492A 3/95	1995 Annual Filing	3,986,206	2,453,436	3,102,987
2	Final Revised 492A 3/96	1996 Annual Filing	4,024,247	2,504,842	3,130,948
3	Difference	L2-L1	38,041	51,406	27,961
4	Percent Increase with RAO-20 Rescission	L3/L1	**2.94%**	**2.10%**	**0.90%**
	As Filed 1993 Annual Filing		Trans. 565	Trans. 1619	Trans. 2271
5b	Adjusted Revenue Requirement		992,258	698,730	790,949
11	FIT	AF Workpapers	60,983	41,726	45,218
12	Return @11.25%	11.25% * L14	195,728	144,333	159,153
13	Percent FIT	L12/L13	31.16%	28.91%	28.41%
14	Average Net Investment	AF Workpapers	1,739,801	1,282,961	1,414,692
	Adjusted for RAO Letter 20 Rescission				
15b	Adjusted Revenue Requirement		999,816	702,629	792,790
21	FIT	L13*L22	62,778	42,600	45,625
22	Return @11.25%	11.25% * L23	201,490	147,357	160,587
23	Average Net Investment	L14*(1+L4)	1,791,025	1,309,842	1,427,440
24	**BFP Rev Req Adjusted for RAO Letter 20 Rescission**	L15b *1000	1,003,748,831	702,628,545	792,790,435
25	CPT Demand Forecast	AF Workpapers	17,911,365	14,316,287	12,497,030
26	BFP EUCL adjusted for RAO Letter 20 Rescission	L24/L25	4.48*	4.09	5.29
27	BFP EUCL as filed	RTE-1 TRP, r100 (D)	4.42	4.07	5.28
	Development of SLC Rev found on CCL-1 TRP, Row 340:	RTE-1 TRP			
28	Multi-Line SLC Demand	r100, (A)	62,722,704	53,661,236	36,388,776
29	Residential and Single-Line Business SLC Demand	r110, (A)	147,078,768	94,709,987	106,585,524
30	Lifeline SLC Demand	r120, (A)	269,064	19,234,087	1,076,460
31	Special Access Surcharge Demand	r130, (A)	294,708	59,521	62,352
32	Multi-Line SLC Proposed Rate	L26	4.48	4.09	5.29
33	Residential and Single-Line Business SLC Proposed Rate	r110, (D)	3.47	3.50	3.50
34	Lifeline SLC Proposed Rate	r120, (D)	3.15	3.50	3.50
35	Special Access Surcharge Proposed Rate	r130, (D)	25.00	25.00	25.00
36	Multi-Line SLC Proposed Revenues	L28*L32	280,715,581	219,469,826	192,370,197
37	Residential and Single-Line Business SLC Prop. Rev	L29*L33	510,251,398	331,484,955	373,049,334
38	Lifeline SLC Proposed Revenues	L30*L34	846,954	67,319,305	3,767,610
39	Special Access Surcharge Proposed Revenues	L31*L35	7,367,700	1,488,025	1,558,800
40	Total SLC Revenues	sum(L36:L39)	799,181,633	619,762,110	570,745,941
	Development of CCL Residual Revenues				
	Step 2:	CCL-1 TRP			
41	CL Revenue at capped (t-1) rates	r270	1,199,418,705	737,393,178	770,021,628
42	CCL MOU for Base Year	r280	51,378,452,668	26,199,459,233	28,856,245,640
43	CL Rev/MOU (t-1)	(L41/L42)	0.023345	0.028145	0.026685
	Step 3:				
44	CL PCI (t)	r300	82.740400	83.542066	87.034500
45	CL PCI (t-1)	r310	86.158900	87.257900	85.984400
46	1 + % Change CL PCI	(1+ (L44-L45)/L45)	0.960323	0.957416	1.012213
47	CL Rev/MOU (t)	(L46*L43)	0.022419	0.026947	0.027011
	Step 4:				
48	Base Demand * Prop. SLCs + Other Common Line Prop Rev	L40	799,181,633	619,762,110	570,745,941
49	CCL MOU for Base Year	r350	51,378,452,668	26,199,459,233	28,856,245,640
50	1+g/2	r360	1.014800	1.035000	1.014531
51	SLC Rev/MOU (t)	L48/(L50*L49)	0.015328	0.022856	0.019496
52	CCL Rev/MOU (t)	L47-L51	0.007091	0.004091	0.007515
	Step 5:				
53	CCL MOU for Base Year	r390	51,378,452,668	26,199,459,233	28,856,245,640
54	CCL Rev at CCL Rev/MOU (t) adjusted for RAO Letter 20 Resc	L53*L52	364,303,496	107,187,688	216,854,160
55	CCL Rev at CCL Rev/MOU (t) as Filed	r400	367,458,693	108,220,147	217,080,849
56	**Additional Reductions to CCL Revenues**	L55-L54	**(3,155,197)**	**(1,032,459)**	**(226,689)**

* adjusted for capped EUCL study areas

Appendix B-3

Re-Calculation of certain LECs' 1994 Annual Filing Carrier Common Line Rates
Due to change in Interstate Rate Base because of RAO-20

Line	Calculation of CCL Residual Revenues 1994 Calendar Results	Source/Calculation	Bell Atlantic Interstate Rate Base	Pacific Bell Interstate Rate Base	Southwestern Bell Interstate Rate Base
1	Preliminary 492A 3/95	1995 Annual Filing	4,002,233	2,424,222	3,167,628
2	Final Revised 492A 3/96	1996 Annual Filing	4,120,069	2,484,261	3,268,043
3	Difference	L2-L1	117,836	60,039	100,415
4	Percent Increase with RAO-20 Rescission	L3/L1	**2.94%**	**2.48%**	**3.17%**
	As Filed 1994 Annual Filing		Trans. 644	Trans. 1701	Trans. 2344/2359
5b	Adjusted Revenue Requirement		1,152,229	828,145	920,554
11	FIT	AF Workpapers	74,856	59,316	58,323
12	Return @11.25%	11.25% * L14	218,687	172,327	176,948
13	Percent FIT	L12/L13	34.23%	34.42%	32.96%
14	Average Net Investment	AF Workpapers	1,943,888	1,531,799	1,572,869
	Adjusted for RAO Letter 20 Rescission				
15b	Adjusted Revenue Requirement		1,160,871	833,882	928,012
21	FIT	L13*L22	77,060	60,785	60,172
22	Return @11.25%	11.25% * L23	225,126	176,595	182,557
23	Average Net Investment	L14*(1+L4)	2,001,121	1,569,736	1,622,730
24	**BFP Rev Req Adjusted for RAO Letter 20 Rescission**	L15b*1000	1,167,498,070	833,882,336	928,011,934
25	CPT Demand Forecast	AF Workpapers	18,378,015	14,610,316	13,011,110
26	BFP EUCL adjusted for RAO Letter 20 Rescission	L24/L25	5.07*	4.76	5.94
27	BFP EUCL as filed	RTE-1 TRP, r100 (D)	5.00	4.72	5.90
	Development of SLC Rev found on CCL-1 TRP, Row 340:	RTE-1 TRP			
28	Multi-Line SLC Demand	r100, (A)	65,784,312	55,732,402	38,806,356
29	Residential and Single-Line Business SLC Demand	r110, (A)	149,414,592	92,817,072	108,840,996
30	Lifeline SLC Demand	r120, (A)	-	22,640,095	1,289,580
31	Special Access Surcharge Demand	r130, (A)	305,400	62,347	64,920
32	Multi-Line SLC Proposed Rate	L26	5.07	4.76	5.94
33	Residential and Single-Line Business SLC Proposed Rate	r110, (D)	3.48	3.50	3.50
34	Lifeline SLC Proposed Rate	r120, (D)	-	3.50	3.50
35	Special Access Surcharge Proposed Rate	r130, (D)	25.00	25.00	25.00
36	Multi-Line SLC Proposed Revenues	L28*L32	333,753,082	265,076,776	230,653,915
37	Residential and Single-Line Business SLC Proposed Revenues	L29*L33	519,610,416	324,859,752	380,943,486
38	Lifeline SLC Proposed Revenues	L30*L34	-	79,240,333	4,513,530
39	Special Access Surcharge Proposed Revenues	L31*L35	7,635,000	1,558,675	1,623,000
40	Total SLC Revenues	sum(L36:L39)	860,998,498	670,735,536	617,733,931
	Development of CCL Residual Revenues				
	Step 2:	CCL-1 TRP			
41	CL Revenue at capped (t-1) rates	r270	1,356,270,872	853,365,739	907,071,205
42	CCL MOU for Base Year	r280	54,082,655,190	28,417,033,389	30,428,397,621
43	CL Rev/MOU (t-1)	r290 (L41/L42)	0.025078	0.030030	0.029810
	Step 3:				
44	CL PCI (t)	r300	85.871500	94.518441	96.683200
45	CL PCI (t-1)	r310	93.052000	94.694900	95.874400
46	1 + % Change CL PCI	(1+ (L44-L45)/L45)	0.922833	0.998137	1.008436
47	CL Rev/MOU (t)	(L46*L43)	0.023143	0.029974	0.030062
	Step 4:				
48	Base Demand * Prop. SLCs + Other Common Line Prop. Rev	L40	860,998,498	670,735,536	617,733,931
49	CCL MOU for Base Year	r350	54,082,655,190	28,417,033,389	30,428,397,621
50	1+g/2	r360	1.013750	1.030950	1.009944
51	SLC Rev/MOU (t)	L48/(L50*L49)	0.015704	0.022895	0.020101
52	CCL Rev/MOU (t)	L47-L51	0.007438	0.007079	0.009960
	Step 5:				
53	CCL MOU for Base Year	r390	54,082,655,190	28,417,033,389	30,428,397,621
54	CCL Rev at CCL Rev/MOU (t) adjusted for RAO Letter 20 Rescissio	L53*L52	402,291,812	201,176,052	303,071,625
55	CCL Rev at CCL Rev/MOU (t) as Filed	r400	406,888,075	203,135,253	304,751,336
56	**Additional Reductions to CCL Revenues**	L55-L54	**(4,596,263)**	**(1,959,202)**	**(1,679,711)**

* adjusted for capped EUCL study areas

Appendix C-1

LECs Rate Base and Sharing Revisions for 1992 & 1993

(dollars in 000)

LEC	Rate Base Chg. Form 492A 1992	Sharing Revisions 1992	Rate Base Chg. Form 492A 1993	Sharing Revisions 1993
AMERITECH	31,481	4,123	82,721	10,220
BELL ATLANTIC	-	-	38,041	4,663
USWEST	-	-	34,991	4,466
PACIFIC - CA	-	-	51,406	7,143
SOUTHWESTERN	-	-	27,961	3,612
LINCOLN	-	-	822	57
TOTAL	31,481	**4,123**	235,942	**30,161**

Appendix C-2

Appendix C-2

IMPACT OF OPEB RATE BASE ADJUSTMENT ON 1994 RATE OF RETURN
AND 1995 ANNUAL FILING SHARING/LFA CALCULATIONS
(FILED IN THE 1996 ANNUAL FILINGS AS TRUE-UP PRIOR SHARING/LOW END ADJUSTMENT EXOGENOUS COST)

	A	B *	C *	D *	E *	F *	G **	H ***	I = E - H	J = D / I	K ****	L = K - G	M *****
	COSA	Revenue	Expenses & Taxes	Operating Income	Rate Base w/ RAO-20	Rate of Return w/ RAO-20	Sharing/ LFA w/ RAO-20	Rate Base Increase Due to RAO-20	Rate Base w/o RAO-20	Rate of Return w/o RAO-20	Sharing/ LFA w/o RAO-20	Sharing/ LFA Difference	Sharing/LFA Difference w/ interest adj
1	AMTR	2,300,450	1,892,726	407,724	3,045,272	13.39%	($31,162)	125,669	2,919,603	13.97%	(45,693)	(14,531)	**($15,984)**
2	BATR	2,858,488	2,281,818	576,670	4,102,769	14.06%	(62,090)	100,536	4,002,233	14.41%	(72,281)	(10,191)	**($13,055)**
3	BSTR	3,237,396	2,507,123	730,273	4,580,682	15.94%	(152,858)	3,504	4,577,178	15.95%	(152,894)	(36)	**($297)**
4	NYNEX	3,129,434	2,692,684	436,750	3,705,953	11.79%	0	0	3,705,953	11.79%	0	0	**$0**
5	PTCA	1,621,480	1,250,682	370,798	2,484,261	14.93%	(56,465)	60,039	2,424,222	15.30%	(62,708)	(6,243)	**($8,302)**
6	PTNV	52,783	40,597	12,186	68,007	17.92%	(3,080)	1,550	66,457	18.34%	(3,511)	(431)	**($474)**
7	SWTR	1,969,463	1,544,182	425,281	3,268,043	13.01%	(20,770)	100,415	3,167,628	13.43%	(32,635)	(11,865)	**($13,051)**
8	USTR	2,306,477	1,843,743	462,734	3,732,124	12.40%	0	33,658	3,698,466	12.51%	0	0	**$0**
9	RTNY	57,477	45,722	11,755	97,797	12.02%	0	0	97,797	12.02%	0	0	**$0**
10	SNET	338,773	282,657	56,116	494,913	11.34%	0	0	494,913	11.34%	0	0	**$0**
11	LTNE	32,360	24,606	7,754	50,132	15.47%	(1,331)	3,447	46,685	16.61%	(2,045)	(714)	**($785)**
12	FRONT.	25,361	18,741	6,620	33,693	19.65%	(3,001)	0	33,693	19.65%	(3,451)	(450)	**$0**
13	GTAL	28,523	23,152	5,371	45,384	11.83%	0	1,753	43,631	12.31%	(24)	(24)	**($26)**
14	GTAR	15,230	15,061	169	25,873	0.65%	4,086	1,241	24,632	0.69%	3,876	(210)	**($231)**
15	GTCA	417,509	345,246	72,263	796,103	9.08%	15,839	7,247	788,856	9.16%	14,578	(1,261)	**($1,387)**
16	GNCA	1,789	2,688	(899)	5,847	-15.38%	2,540	128	5,719	-15.72%	2,519	(21)	**($23)**
17	GTFL	258,357	221,512	36,845	500,376	7.36%	23,875	17,609	482,767	7.63%	20,576	(3,299)	**($3,629)**
18	GTHI	127,308	106,136	21,172	259,869	8.15%	9,125	10,522	249,347	8.49%	7,179	(1,946)	**($2,140)**
19	GTID	40,568	30,364	10,204	52,074	19.60%	(5,098)	934	51,140	19.95%	(5,426)	(328)	**($361)**
20	GTIL	103,053	75,263	27,790	162,336	17.12%	(8,887)	3,452	158,884	17.49%	(9,505)	(618)	**($679)**
21	GTIN	119,183	88,640	30,543	167,769	18.21%	(12,385)	4,984	162,785	18.76%	(13,166)	(781)	**($859)**
22	GTIA	18,985	13,572	5,413	28,408	19.05%	(2,823)	965	27,443	19.72%	(2,603)	220	**$242**
23	GTKY	67,393	54,456	12,937	118,012	10.96%	0	3,681	114,331	11.32%	0	0	**$0**
24	GTMI	87,191	67,704	19,487	175,541	11.10%	0	6,642	168,899	11.54%	0	0	**$0**
25	GTMN	547	547	0	1,022	0.00%	179	36	986	0.00%	172	(7)	**($7)**
26	GTMO	18,055	13,323	4,732	25,994	18.20%	(1,972)	57	25,937	18.24%	(1,896)	76	**$83**
27	GTNE	9,022	6,381	2,641	12,976	20.35%	(1,521)	1,760	11,216	23.55%	(1,936)	(415)	**($456)**
28	GTNM	7,755	6,546	1,209	12,085	10.00%	49	598	11,487	10.52%	0	(49)	**($54)**
29	GTNC	38,907	27,579	11,328	59,573	19.02%	(5,423)	857	58,716	19.29%	(5,498)	(75)	**($83)**
30	GTOH	109,678	81,698	27,980	165,524	16.90%	(7,819)	6,933	158,591	17.64%	(9,209)	(1,390)	**($1,529)**

IMPACT OF OPEB RATE BASE ADJUSTMENT ON 1994 RATE OF RETURN
AND 1995 ANNUAL FILING SHARING/LFA CALCULATIONS
(FILED IN THE 1996 ANNUAL FILINGS AS *TRUE-UP PRIOR* SHARING/LOW END ADJUSTMENT EXOGENOUS COST)

	A	B *	C *	D *	E *	F *	G **	H ***	I = E - H	J = D / I	K ****	L = K - G	M *****
	COSA	Revenue	Expenses & Taxes	Operating Income	Rate Base w/ RAO-20	Rate of Return w/ RAO-20	Sharing/ LFA w/ RAO-20	Rate Base Increase Due to RAO-20	Rate Base w/o RAO-20	Rate of Return w/o RAO-20	Sharing/ LFA w/o RAO-20	Sharing/ LFA Difference	Sharing/LFA Difference w/ interest adj
31	GTOK	19,401	17,324	2,077	32,221	6.45%	2,006	632	31,589	6.58%	1,900	(106)	**($117)**
32	GTOR	65,519	47,621	17,898	110,454	16.20%	(4,123)	2,044	108,410	16.51%	(4,489)	(366)	**($402)**
33	GTPA	67,478	51,169	16,309	110,118	14.81%	(2,808)	4,837	105,281	15.49%	(3,318)	(510)	**($561)**
34	GTSC	34,164	26,446	7,718	43,860	17.60%	(2,741)	921	42,939	17.97%	(2,881)	(140)	**($154)**
35	GTTX	199,493	169,248	30,245	417,677	7.24%	19,333	21,394	396,283	7.63%	15,960	(3,373)	**($3,710)**
36	GTVA	6,404	5,220	1,184	12,742	9.29%	199	340	12,402	9.55%	143	(56)	**($62)**
37	GTWA	104,011	77,125	26,886	196,663	13.67%	(2,338)	3,424	193,239	13.91%	(2,751)	(413)	**($454)**
38	GTWI	62,608	47,693	14,915	109,256	13.65%	(1,446)	3,438	105,818	14.09%	(1,814)	(368)	**($405)**
39	COAL	24,871	21,404	3,467	27,571	12.57%	(51)	1,893	25,678	13.50%	(290)	(239)	**($262)**
40	COAZ	2,922	2,701	221	3,544	6.24%	240	61	3,483	6.35%	230	(10)	**($11)**
41	COAR	32,572	27,349	5,223	29,948	17.44%	(1,722)	754	29,194	17.89%	(1,946)	(224)	**($246)**
42	COCA	66,617	55,396	11,221	92,047	12.19%	183	3,826	88,221	12.72%	(391)	(574)	**($631)**
43	COIL	33,865	25,111	8,754	33,057	26.48%	(7,780)	2,320	30,737	28.48%	(8,074)	(294)	**($323)**
44	COIN	30,262	22,821	7,441	33,155	22.44%	(4,886)	1,946	31,209	23.84%	(5,365)	(479)	**($527)**
45	COIA	25,450	19,240	6,210	33,924	18.31%	(2,649)	1,396	32,528	19.09%	(3,063)	(414)	**($455)**
46	COKY	17,441	15,927	1,514	27,214	5.56%	2,138	768	26,446	5.72%	2,007	(131)	**($144)**
47	COMN	19,818	15,118	4,700	21,245	22.12%	(3,333)	433	20,812	22.58%	(3,291)	42	**($46)**
48	COMO	90,511	80,327	10,184	94,406	10.79%	0	3,049	91,357	11.15%	0	0	**$0**
49	CONV	9,676	6,474	3,202	11,690	27.39%	(2,860)	580	11,110	28.82%	(2,771)	89	**($98)**
50	CONM	17,482	14,244	3,238	11,748	27.56%	(3,054)	194	11,554	28.02%	(2,948)	106	**($117)**
51	CONC	26,087	23,056	3,031	28,204	10.75%	0	960	27,244	11.13%	0	0	**$0**
52	COPT	19,919	13,654	6,265	19,218	32.60%	(7,007)	754	18,464	33.93%	(7,067)	(60)	**($66)**
53	COSC	4,353	3,709	644	6,591	9.77%	51	65	6,526	9.87%	40	(11)	**($12)**
54	COTX	60,385	55,924	4,461	53,819	8.29%	1,624	2,364	51,455	8.67%	1,251	(373)	**($410)**
55	COVA	93,937	66,501	27,436	117,019	23.45%	(19,839)	4,127	112,892	24.30%	(20,664)	(825)	**($907)**
56	COWA	20,497	15,826	4,671	25,847	18.07%	(1,658)	1,171	24,676	18.93%	(1,976)	(318)	**($350)**
	Total Rate Base Impact on Sharing												**($73,560)**

* 1994 Revenue, Expenses & Taxes, Operating Income, Rate Base w/RAO-20, and Rate-Of-Return were taken from LECs' 1994 Preliminary 492A reports.

** This sharing/LFA calculation does not include any adjustments for addback or interest, but does include adjustments for federal tax and state tax.

*** The rate base increase due to RAO-20 was computed by subtracting the LECs' rate base shown on its first 1994 492A filed on March 31, 1995 by the LECs' rate base shown on its final 1994 492A filed on March 31, 1996.

**** This sharing/LFA calculation does not include any adjustments for addback or interest, but does include adjustments for federal tax and state tax.

***** This sharing/LFA difference is the sharing/LFA difference from column L plus one year of interest at 11.25%.

Appendix C-3

IMPACT OF OPEB RATE BASE ADJUSTMENT ON 1995 RATE OF RETURN
AND 1996 ANNUAL FILING SHARING/LFA CALCULATIONS

	A	B *	C *	D *	E *	F *	G **	H ***	I = E - H	J = D / I	K ****	L = K - G	M *****
	COSA	Revenue	Expenses & Taxes	Operating Income	Rate Base w/ RAO-20	Rate of Return w/ RAO-20	Sharing/ LFA w/ RAO-20	Rate Base Increase Due to RAO-20	Rate Base w/o RAO-20	Rate of Return w/o RAO-20	Sharing/ LFA w/o RAO-20	Sharing/ LFA Difference	Sharing/LFA Diff w/tax & & w/interest
1	Pacific Bell (1)	1,621,470	1,250,672	370,798	2,474,261	14.99%	($33,851)	76,870	2,397,391	15.47%	($38,559)	(4,708)	**($8,885)**
2	Nevada Bell (2)	53,601	41,483	12,118	70,221	17.26%	($1,407)	2,164	68,057	17.81%	($1,550)	(143)	**($245)**
3	U S West (3)	2,425,710	1,960,655	465,055	4,007,152	11.61%	$0	44,081	3,963,071	11.73%	$0	0	**$0**
4	Rochester (4)	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	**"N/A"**
5	Frontier (4)	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	**"N/A"**
6	Frontier-MN & IA (5)	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	**"N/A"**
7	Ameritech (6)	2,314,807	1,795,638	519,169	3,093,308	16.78%	"N/A"	155,669	2,937,639	17.67%	"N/A"	"N/A"	**"N/A"**
8	BellSouth (7)	3,341,690	2,613,046	728,644	4,627,473	15.75%	($80,889)	26,354	4,601,119	15.84%	($82,503)	(1,614)	**($2,940)**
9	Southwestern Bell (8)	2,091,805	1,643,499	448,306	3,351,986	13.37%	($18,844)	125,519	3,226,467	13.89%	($26,532)	(7,688)	**($13,817)**
10	Bell Atlantic (9)	2,978,629	2,371,665	606,964	4,420,570	13.73%	($32,722)	125,670	4,294,900	14.13%	($40,419)	(7,697)	**($12,034)**
11	NYNEX (10)	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	**"N/A"**
12	Lincoln (11)	33,585	25,295	8,290	51,541	16.08%	($988)	1,809	49,732	16.67%	($1,203)	(215)	**($340)**
13	Sprint (12)	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	"N/A"	**"N/A"**
14	SNET(13)	332,014	276,732	55,282	477,342	11.58%	$0	0	477,342	11.58%	$0	0	**$0**
15	GTE-GTAR(14)	15,217	15,774	(557)	25,547	-2.18%	$3,176	1,551	23,996	-2.32%	$3,017	(159)	**($246)**
16	GTE-GTAL(14)	29,974	24,757	5,217	45,486	11.47%	$0	2,191	43,295	12.05%	$0	0	**$0**
17	GTE-GTAK (14)	4,080	3,023	1,057	4,691	22.53%	($389)	86	4,605	22.95%	($401)	(12)	**($19)**
18	GTE-GTCA (14)	417,001	362,115	54,886	787,770	6.97%	$25,860	9,059	778,711	7.05%	$24,932	(929)	**($1,452)**
19	GTE-GNCA(14)	1,735	3,035	(1,300)	6,277	-20.71%	$1,943	160	6,117	-21.25%	$1,927	(16)	**($26)**
20	GTE-GTFL (14)	271,672	228,100	43,572	512,899	8.50%	$9,000	22,011	490,888	8.88%	$6,744	(2,256)	**($3,474)**
21	GTE-GTHI (14)	130,932	106,571	24,361	281,812	8.64%	$4,525	13,153	268,660	9.07%	$3,177	(1,348)	**($2,080)**
22	GTE-GTID (14)	44,735	34,152	10,583	52,190	20.28%	($3,146)	1,168	51,023	20.74%	($3,312)	(166)	**($259)**
23	GTE-GTIL+GLIL (14)	105,023	78,598	26,425	173,899	15.20%	($2,561)	4,315	169,584	15.58%	($2,825)	(264)	**($410)**
24	GTE-GTIN+GLIN (14)	122,963	91,082	31,881	167,536	19.03%	($8,007)	6,230	161,306	19.76%	($8,895)	(888)	**($1,361)**
25	GTE-GTIA (14)	19,772	14,874	4,898	28,243	17.34%	($873)	1,206	27,037	18.12%	($1,045)	(172)	**($271)**
26	GTE-GTKY (14)	69,883	54,179	15,704	115,031	13.65%	($806)	4,601	110,430	14.22%	($1,088)	(282)	**($439)**
27	GTE-GTMI+GLMI (14)	93,847	73,453	20,394	181,551	11.23%	$0	8,303	173,249	11.77%	$0	0	**$0**
28	GTE-GTMC (14)	9,290	7,884	1,406	23,964	5.87%	$1,050	0	23,964	5.87%	$1,050	0	**$0**
29	GTE-GTMN (14)	296	460	(164)	1,297	-12.64%	$297	45	1,252	-13.10%	$292	(5)	**($7)**
30	GTE-GTMO (14)	19,661	14,933	4,728	26,275	17.99%	($984)	71	26,204	18.04%	($994)	(10)	**($16)**

IMPACT OF OPEB RATE BASE ADJUSTMENT ON 1995 RATE OF RETURN
AND 1996 ANNUAL FILING SHARING/LFA CALCULATIONS

	A	B *	C *	D *	E *	F *	G **	H ***	I = E - H	J = D / I	K ****	L = K - G	M *****
	COSA	Revenue	Expenses & Taxes	Operating Income	Rate Base w/ RAO-20	Rate of Return w/ RAO-20	Sharing/ LFA w/ RAO-20	Rate Base Increase Due to RAO-20	Rate Base w/o RAO-20	Rate of Return w/o RAO-20	Sharing/ LFA w/o RAO-20	Sharing/ LFA Difference	Sharing/LFA Diff w/tax & & w/interest
31	GTE-GTNE (14)	8,956	6,321	2,635	11,965	22.02%	($930)	2,200	9,765	26.98%	($1,243)	(314)	**($487)**
32	GTE-GTNM (14)	8,488	6,546	1,942	11,654	16.66%	($281)	749	10,905	17.81%	($388)	(107)	**($166)**
33	GTE-GTNC (14)	39,297	30,623	8,674	60,259	14.39%	($646)	1,071	59,188	14.66%	($712)	(66)	**($102)**
34	GTE-GTOH (14)	110,705	81,909	28,796	168,312	17.11%	($4,812)	8,666	159,646	18.04%	($6,046)	(1,235)	**($1,855)**
35	GTE-GTOK (14)	16,086	14,137	1,949	30,032	6.49%	$1,129	790	29,242	6.67%	$1,048	(81)	**($125)**
36	GTE-GTOR (14)	78,764	56,627	22,137	118,842	18.63%	($5,202)	2,555	116,287	19.04%	($5,566)	(364)	**($563)**
37	GTE-GTPA (14)	67,999	52,906	15,093	111,799	13.50%	($699)	6,046	105,753	14.27%	($1,069)	(370)	**($585)**
38	GTE-GTSC (14)	34,119	26,295	7,823	41,433	18.88%	($1,919)	1,150	40,283	19.42%	($2,083)	(164)	**($252)**
39	GTE-GTTX (14)	216,703	186,397	30,306	440,776	6.88%	$14,874	26,743	414,034	7.32%	$12,132	(2,741)	**($4,117)**
40	GTE-GTVA (14)	8,017	6,656	1,361	12,065	11.28%	$0	425	11,640	11.69%	$0	0	**$0**
41	GTE-GTWA (14)	113,562	80,694	32,868	206,553	15.91%	($3,783)	4,280	202,273	16.25%	($4,045)	(262)	**($394)**
42	GTE-GTWI (14)	67,903	50,478	17,425	114,822	15.18%	($1,680)	4,298	110,525	15.77%	($1,943)	(263)	**($409)**
43	GTSC-COAL(14)	23,857	21,077	2,780	25,861	10.75%	$0	2,366	23,495	11.83%	$0	0	**$0**
44	GTSC-COAZ(14)	2,279	2,218	61	3,662	1.67%	$314	76	3,586	1.70%	$307	(8)	**($12)**
45	GTSC-COAT(14)	32,010	27,069	4,941	29,867	16.54%	($685)	943	28,925	17.08%	($819)	(134)	**($208)**
46	GTSC-COCA(14)	67,375	53,383	13,992	84,935	16.47%	($1,889)	4,781	80,154	17.46%	($2,570)	(681)	**($1,065)**
47	GTSC-COIL(14)	31,023	22,355	8,668	34,188	25.35%	($3,796)	2,900	31,288	27.70%	($4,209)	(413)	**($641)**
48	GTSC-COIN(14)	29,313	22,046	7,267	31,203	23.29%	($2,821)	2,433	28,771	25.26%	($3,167)	(347)	**($531)**
49	GTSC-GTIA(14)	28,752	21,681	7,071	31,670	22.33%	($2,558)	1,745	29,925	23.63%	($2,807)	(249)	**($393)**
50	GTSC-COKY(14)	19,313	17,948	1,365	28,409	4.80%	$1,547	960	27,449	4.97%	$0	(1,547)	**($2,409)**
51	GTSC-COMN(14)	19,870	14,930	4,939	21,219	23.28%	($1,915)	541	20,678	23.89%	($1,992)	(77)	**($121)**
52	GTSC-COMT(14)	94,134	84,517	9,617	100,560	9.56%	$690	3,811	96,749	9.94%	$0	(690)	**($1,067)**
53	GTSC-CONV(14)	9,093	6,568	2,525	12,707	19.87%	($714)	725	11,982	21.07%	($818)	(103)	**($155)**
54	GTSC-CONM (14)	19,519	14,400	5,119	10,778	47.49%	($3,583)	241	10,537	48.58%	($3,618)	(34)	**($53)**
55	GTSC-CONC(14)	25,937	22,493	3,444	28,103	12.25%	($1)	1,200	26,903	12.80%	($74)	(74)	**($114)**
56	GTSC-COPT(14)	18,888	12,486	6,402	17,648	36.28%	($3,887)	943	16,706	38.32%	($4,021)	(134)	**($212)**
57	GTSC-COSC(14)	4,487	3,603	884	7,018	12.60%	($12)	83	6,936	12.75%	($17)	(5)	**($8)**
58	GTSC-COTX(14)	55,888	48,161	7,727	50,485	15.31%	($771)	2,955	47,530	16.26%	($954)	(183)	**($274)**
59	GTSC-COVA(14)	98,028	69,630	28,398	123,932	22.91%	($10,738)	5,160	118,772	23.91%	($11,473)	(735)	**($1,134)**
60	GTSC-COWA(14)	23,554	17,931	5,623	25,048	22.45%	($2,054)	1,464	23,584	23.84%	($2,262)	(209)	**($313)**
	Total Rate Base Impact on Sharing												**($66,085)**

IMPACT OF OPEB RATE BASE ADJUSTMENT ON 1995 RATE OF RETURN
AND 1996 ANNUAL FILING SHARING/LFA CALCULATIONS

* 1995 Revenue, Expenses & Taxes, Operating Income, Rate Base w/RAO-20, and Rate-Of-Return were taken from LECs' 1995 Preliminary 492A reports.

** This sharing/LFA calculation does not include any adjustments (I.e. addback, taxes, interest).

*** The numbered notes below provide LEC tariff references used by AT&T to compute the LECs' Rate Base adjustment due to RAO-20.

**** This sharing/LFA calculation does not include any adjustments (I.e. addback, taxes, interest).

***** This sharing/LFA difference is the sharing/LFA difference from column L adjusted for federal tax, state tax, and one year of interest at 11.25%.

(1) See In the Matter of 1996 Annual Access Filings Pacific Bell Revisions to Tariff FCC. No. 127, Response of Pacific Bell to Petitions to Reject, or Suspend and Investigate. Appendix A.
(2) Nevada Bell, Transmittal 217, Exhibit 9. Nevada Bell Attachment 1, in its response suggests its 1994 rate base impact due to OPEB is $1,731,325. The 1995 rate base impact is assumed to be 25% larger.
(3) U.S. West Transmittal 720, U S West Reply to Petitions to Reject or Alternately to Suspend and Investigate, P16.
(4) Rochester 1996 Annual Access Filing, Cost Support, Transmittal No. 12. 492A. Neither Rochester or its concurring Tier 2 LECs adjusted their sharing to reflect an OPEB rate base adjustment. Note, the Tier 2 LEC 492A was based on the FCC initial filed copy for 1/95-12/95. issued on 3/29/96. Rochester and Frontier state Neither Rochester or the tier 2 LECs included OPEB rate base adjustments.
(5) Frontier-MN & IA 1996 Annual Access Filing, Transmittal No. 4. See D&J & related Cost Support Exhibit 2-10. Frontier did not reduce their sharing by an OPEB rate base adjustment.
(6) Ameritech transmittal 961, April 2, 1996, Description and Justification. P.1. Ameritech states that it received a 5.3% waiver under which 1995 earnings were exempt from sharing.
(7) Bell South, Transmittal 348, Reply of Bell South Telecommunications, Exhibit A.
(8) Southwestern Bell transmittal 2544, Filed April, 1, 1996. The 1995 rate base impact reflects 25% growth over the 1994 OPEB rate base impact.
(9) Bell Atlantic Transmittal 867, Filed April, 1, 1996. Bell Atlantic's 1995 OPEB rate Base Impact is estimated to be 25 % larger than the 1994 impact.
(10) NYNEX Transmittal 409. There is no evidence that NYNEX adjusted its rate base to reflect OPEB.
(11) Lincoln Transmittal 114, Filed April, 1, 1996. The 1995 rate base impact is assumed to be 25% larger than the 1994 impact.
(12) Sprint correctly made no adjustment (see In the Matter of 1996 Annual Access Tariff Filings, DA-96-263Reply to Petitions to Reject in Part or in the Alternative to Suspend and Investigate. P.2.
(13) SNET asserts that it has correctly calculated its sharing and LFAM where required. 1995 earnings did not exceed the sharing threshold. It does not appear that SNETincluded OPEB in any of the rate of return documents for the years ending 1995. The SNET rate base in 1995 actually declined from its level in 1994.
(14) GTOC Transmittal No. 1026, Filed April 1, 1996. The estimated OPEB amount is assumed to be 25% larger than the 1994 OPEB rate base adjustment. GTSC Transmittal No. 178, Filed April 1, 1996. The estimated OPEB amount is assumed to be 25% larger than the 1994 OPEB rate base adjustment.